

A
COLLECTION
OF
STATUTES RELATING TO INDIA
IN TWO VOLUMES
VOL I
UP TO THE END OF 1887



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PREFACE.

A *Collection of the Statutes relating to India* was published in two volumes by Mr Whitley Stokes in the year 1881, and the supplemental volume, which appeared after a short interval, ended with the Fugitive Offenders Act, 1881 (44 & 45 Vict, c 69) A new edition of the compilation, prepared to some extent on the same lines as the edition of 1881, was published in 1899 by Mr Carnduff The last Statute published in that edition is the Reserve Forces Act, 1899 (62 & 63 Vict, c 40) Since then some fifty new Statutes affecting India have been passed by Parliament, a number of those extant in 1899 have been repealed while many have been substantially amended, and nearly all have been affected by the Statute Law Revision Acts recently passed The necessity for a new edition is,

The Copyright Act, 1911 (1 & 2 Geo. 5, Ch. 46), came into operation in India on the 30th October, 1912, while this volume was passing through the Press.

been made which are explained in the

3 The edition of 1881 included 35 Statutes which were passed before 1726 Several of them, however, have been repealed by either imperial or local legislation and two or three have been judicially held to be inapplicable to India of the rest only three, namely, 10 Will 3, c 22, 11 Will 3, c 12, and 7 Anne, c 5, and a portion of section 3 of 12 & 13 Will 3, c 2, are reproduced in the edition of 1899, the others being omitted for reasons given in the preface to the first volume of that edition The question of the applicability of any of these old Statutes to British India is one of great difficulty and can be decided only by the Courts The object of this publication is to place within easy reach of the Courts and the public in India all such Parliamentary enactments as they may have to administer or obey, and it is considered that that object requires that all such Statutes as are of possible application to any part of India should be included Extant portions of the following old Statutes have accordingly been re-inserted in the first volume of this edition —25 Edw 1, c 1 & c 29, 5 Edw 3, c 9, 28 Edw 3, c 3, 32 Henry 8, c 34, 32 Henry 8, c 38 (the last clause about

prohibited degrees), 29 Chas 2, c 3, ss 7 to 11, 31 Chas. 2, c. 2, 1 W. & M, c 6, 12 & 13 Will 3, c 2 (except s 4), 1 Anne, c 2, and 6 Anne, c 41, s 8 5 & 6 Edw 6, c 16, was omitted from Mr Whitley Stokes' edition on the ground that it had been held to be inapplicable to India in the case of *Rex v Vaughan*, 4 Burr 2500, it was, however, subsequently to the decision in that case, expressly extended throughout the British dominions by 49 Geo 3, c 126, and has been included in the present volume. Recent Statutes relating to the demise of the Crown have been republished in this country and the earlier Statutes relating to the Crown have been included.

4 Some of the older enactments relating to India have been repealed by Statute Law Revision Acts only as regards the United Kingdom. Most of these have been excluded, with notes explaining that they are obsolete or inapplicable to India. Where it is stated that an enactment has been repealed by an Act of Parliament, it is to be understood that the repeal extends, expressly or by necessary implication, to India, or that the enactment repealed never had any application to India. Where in any other case the extent of the repeal is limited, the fact is indicated.

5 Statutes passed before 1861, which have been locally repealed in India, have likewise been omitted, the repealing Act being in each case cited *in loco*.

6 The Chronological Table prefixed to the volume follows the English *Chronological Tables*, and not the tables prefixed to the *Statutes Revised* in other words, except in the case of the Army Act, the repeals are indicated in it in detail.

7 The Copyright Act, 1911 (1 & 2 Geo 5, c 46), extends to British India, but it will not come into operation here until it is proclaimed. No such proclamation has yet been issued, the Statutes repealed by that Act have accordingly been reproduced with a footnote drawing attention to the fact that they will be repealed on the issue of the proclamation.

8 A short index will be found at the end of the volume.

9 The preface to the first edition of Mr Whitley Stokes' *Older Statutes relating to India* contains much valuable matter and is reproduced.

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Legislative Department

SRM

11th August 1912

PREFACE TO THE FIRST EDITION OF THE OLDER STATUTES RELATING TO INDIA

THE present volume contains all the English Statutes passed before 1726 which can possibly be of practical utility within the Presidency-towns. A sequel is intended to contain such of the Statutes relating to India, passed between that year and 1874, as will remain unrepealed after the Statutes relating to Indian Government have been consolidated somewhat in the manner proposed by the late Mr Merivale^a

It is well settled that, on the establishment of Mayors' Courts in Calcutta, Madras and Bombay under the charter of 13 Geo I, the Statute-law in force in England in the year 1726 was introduced into the Presidencies so far as it was applicable to local circumstances^b

Under the qualification contained in the last part of this proposition, large classes of Statutes will obviously be excluded. The Statutes, for instance, dealing with the subjects of Advowsons, Bankruptcy, Bastardy, Clergy, Commons, Dilapidations, Elections, Excise, Forests, Police, Poor-relief, Sewers, Tithes and the qualification of Sheriffs were clearly framed with reference to the special conditions of England, and could never be deemed applicable to any part of India. Other Statutes, such as those relating to Coroners, Crimes, Executors, Jurors, Justices of the Peace, Lotteries, Oaths, Pleading and Riotous Assemblies, have been rendered by recent Indian legislation unnecessary and therefore inapplicable. But when we go beyond these classes of laws, and inquire, for example, whether the Statutes relating to maintenance and champerty are in force in Calcutta, we at once fall into doubt and difficulty. It is true that, in the absence of any declaration by the legislature,

^a A Bill for this purpose prepared by Mr Merivale, recast by Sir James Stephen, and twice revised by Sir A. Hobhouse and myself, has, apparently, been dropped. It consolidated 43 Statutes.

^b See Clarke's Rules and Orders of the Supreme Court, Calcutta, 1829, preface, p. IV, *Doe d. Savage v. Bancharam Tagore*, Morton 72, per Chambers, J. *Musleah v. Musleah*, Boulton Rep. 240, per Colville, C. J. *Padaman Das v. Jagadamba Das*, 3 Ben. L. R., O. C. J. 59. *Willinson v. Abbas Sircar*, 1b 98, 99, per Peacock, G. J. *Manikj. Mehervanji v. Rahimtulla Alubhai*, 1 Bomb. Appendix 1, per Sausse, G. J. *Ranee Hurrooondaree Dossee v. Raja Kistoonath Roy*, cited 1 Hyde's Rep. 70. But as the Letters Patent of Charles II, in 1661, granted "that the Governor and his Council might have power to judge all persons in all causes, whether civil or criminal, according to the Laws of the Kingdom of England," it would be more correct to say that, ever since the establishment of the Mayors' Courts, the English Statutes in force in 1726 have been deemed in force in the Presidencies so far as they were applicable to local circumstances. see *Freeman v. Fairlie*, 1 Moo. I. A. Ca. 342. *Jebb v. Lefevre*, Clarke's Rules and Orders, etc., 56.

the Judges of the late Supreme Courts and those of the present High Courts have assumed the function of declaring what Statutes shall be deemed in force within the local limits of their ordinary original jurisdiction. But, in the first place, the Judges have made such declarations in comparatively few instances, in the second place, their decisions have not always been reported, thirdly, it may, with deference, be doubted whether their declarations are always right, and fourthly, even when they are certainly correct, the rulings of the Judges of one Supreme or High Court are not binding upon those of another.*

Even in cases where a Statute certainly operates in the Presidency-towns, it is not always clear whether it applies to all the inhabitants or only to Europeans. Thus, every one agrees that the Statutes of Elizabeth relating to fraudulent conveyances are in force in Calcutta, Madras and Bombay, and in Calcutta, the late Mr Justice Norman (2 Ind Jur O S 7) held that they applied to Natives as well as to Europeans. But in Madras, Sir Adam Bittleston seemed to think, in a case reported in 6 Mad H C Rep 474, that they applied only to British subjects other than Hindús or Muhammadans.

The result is a great amount of uncertainty as to the Statute law in force in the Presidency-towns, and this not merely in rare instances, but in matters of constant occurrence. Sir Lawrence Peel (for example) in an unreported case held that the Statutes relating to maintenance and champerty did not apply to India. Mr Justice Phear (4 Beng O J 1) and Mr Justice Holloway (7 Madras, 143), on the contrary, hold that they do apply, at least within the Presidency-towns. Peacock, C J (9 Suth Cr R 243), held that champerty is not illegal in the mufassal. Scotland, C J (1 Madras, 153), admitting that the common and Statute-law as to maintenance and champerty did not apply to Natives, thought that the 'general principles' upon which it rests might be so applied. For two days again the High Court in Madras has lately been occupied in discussing whether or not the sixth section of the Lord's Day Act (20 Car II, cap 7) applies to the Presidency-towns, and whether therefore a Muhammadan debtor could or could not be legally arrested on Sunday. The decisions of the Court of First Instance and of the Appellate Bench were conflicting, and as a further appeal is (I believe) pending, the question cannot yet be regarded as settled even in Madras,

* A list of the Statutes passed before 1726, and held not to apply to India, is given in the Appendix to this preface.

much less in Calcutta or Bombay Do the Statutes of 52 Hen III, 13 Edw I, cap 37, 1 & 2 Phil & Mar, cap 12, 17 Car II, cap 7, and 11 Geo II, cap 19, apply to distresses in the Presidency-towns for arrears of rent exceeding Rs 1,000*? If not what law is applicable to such distresses? Even so ordinary a matter as protesting an inland bill for non-payment is clouded with doubt The Statute (9 Wm III, c 17) legalizing this practice has never been ruled to be in force in India, and, as it is in terms applicable only to bills drawn on or dated at places "in the kingdom of England, dominion of Wales or town of Berwick upon Tweed," it is quite possible that it may be held not to operate in this country

This uncertainty is not confined to the Presidency-towns, for under the Burma Courts Act (VII of 1872), the Recorder of Rangoon determines cases in which the parties are not Hindús, Muhammadans nor Buddhists in accordance with "the law administered by the High Court at Fort William in the exercise of its ordinary original civil jurisdiction," and of this law, the English Statutes (whatever they may be) in force in Calcutta form an important element

Moreover, the Statutes in force in the Presidency-towns (except of course where they have been modified by Indian legislation) seem to operate as a kind of personal law in the case of European vendors, purchasers, mortgagors, mortgagees, lessors or lessees of land anywhere in India outside the local limits For Peel, C J, in *Storm v Homfray*, 1 Tayl & Bell 333-4, ruled that "British subjects litigating in this Court [the late Supreme Court at Fort William] as to the title to immoveable property, *though situate in the mufassal*, must have their rights as to the subject-matter determined by the law of England so far as it has been introduced here"

The doubts and difficulties above referred to have been brought very vividly before me while preparing for Government the edition of the Statutes in force in India, of which the first instalment is contained in the present volume, and it seems to me that this is clearly a case in which the Legislature, in consultation with the Judges of the High Courts, might usefully declare that certain of the Statutes (specifying them) passed before 1726 shall be deemed to be in force in the Presidency-towns, and that all other Statutes passed before that year shall be repealed so far as they affect British India The neces-

* Distresses for arrears not exceeding Rs 1 000 are provided for by the Small Cause Courts Acts, VII of 1847, IX of 1850, s 89, and XXVI of 1864, s 4 [Now see Act I of 1877]

sary legislation might be effected either by a separate Bill, or by adding a section and schedule to the Laws Local Extent Bill^a now before the Council. This would, I think, be more convenient than giving (as was done in the case of N S Wales by 9 Geo IV, c 83, s 24) power to the Executive, with the advice of the Legislature, to declare whether any particular Statute extends to this country. Whichever of these suggestions is adopted, the collection contained in the present volume will probably be of use. It consists, as will be seen, of all the Statutes (except five Acts of no practical importance in this country) passed before 1726, which can possibly be deemed in force in the Presidency-towns, and references to all the reported decisions of the Judges as to whether a Statute is or is not in force in India will be found in notes^b at the proper places or in the Table at p xiii. Where the Revised Edition of the Statutes, London, 1870, differs with respect to years, statutes and chapters from Ruffhead's, Pickering's and other editions, the Revised Edition has been followed. Where a Statute is in Anglo-Norman or Latin, nothing but the translation in the Revised Edition has been given.

It will be seen that, of the 732 Statutes passed before 1726 and still in force in England, 75 appear to me to be (some certainly, others probably, the rest possibly) in force in the Presidency-towns and Rangoon.

If three Acts were passed by the Legislative Council, one dealing with maintenance and champerty, another abolishing the Sheriff or consolidating the law concerning that functionary and a third extending the present law as to distresses for arrears not exceeding Rs 1,000 to arrears exceeding that sum, the number of these Statutes might be reduced to 53.

Regarding the Statutes passed subsequently to 1726, there is less difficulty. Some have been expressly applied to India by Acts of the Indian Legislature^c. As to the others, the rule is that none but the unrepealed Statutes expressly, or by necessary implication, extending to India are in force in any part of this country, see *Edwards v Ronald*, 1 Knapp P C C 259 *Bank of Hindústán v Premchand Raichand*, 5 Bombay O C J 91. The authority on which the Indian Courts have refused to apply any of the other Statutes passed since the granting of the charter of George I is to be found in Calvin's case,

^a Now Act XV of 1874.

^b These notes are marked with letters in parentheses. The notes marked with figures, asterisks and obelisks are taken from the Revised Edition of the Statutes.

^c See Acts XIII of 1840, XIV of 1840 (both repealed), XXIV of 1841 and IX of 1842.

7 Rep 1^a I know of no Statutes to which the doctrine, that usage is sufficient to extend an Act of Parliament to a Colony (25 Geo II, c 6, s 10, *Forsyth's Cases and Opinions*, p 2), can be considered to apply in India

Doubts may be raised as to how far some of the modern repealing and amending Statutes are in force in this country. Most of the Statutes in force in England in the year 1726 have been repealed by Statutes which in very few instances expressly apply to India. Do the repealing Acts operate here? Parliament (see 9 Geo IV, c 74, s 125) and the Supreme Indian Legislature have more than once acted as if this question should be answered in the negative. On the other hand, the last Statute-law Revision Act (36 & 37 Vic, c 91) declares that it "shall not extend to repeal any enactment so far as the same may be in force in any part of Her Majesty's Dominions out of the United Kingdom, except where otherwise expressed in the said schedule." This seems to show that, in the opinion of Parliament, that Act would, in the absence of the declaration just quoted, have operated in British India. Does a modern Statute amending an ancient Statute in force in India extend to this country by necessary implication? For instance, the Habeas Corpus Act (31 Car II, c 2) applies to the Presidency-towns but does the amending Act, 56 Geo III, c 100, apply also? In *Reg v Vaughan*, 5 Beng 429, Phear, J, asserted that it did not, but Mr Anstey, in *Ameer Khan's* case (6 Beng 418), contended that it did, the point was not decided. Dwarries, 527, says that "Acts of Parliament altering other Acts in force in the Colonies are considered as themselves applying there." But he cites no authority for this proposition. It is merely the opinion of a respectable text-writer, and the Supreme Indian Legislature has at least in one instance (the enactment of so much of 19 & 20 Vic, c 97, as modified the requirements of the Statute of Frauds as to the consideration for a guarantee) acted as if the opposite view were correct.

The decisions on this branch of the subject are almost all negative, *i e*, that such and such a Statute does not extend to this country. For convenience of reference they are collected in Table B.

WHITLEY STOKES

CALCUTTA,

25th April, 1874

* See Clarke's Rules and Orders, Pref IV. "It does not rest upon any one case, Calvin's or any other, however respectable that authority, but on the clearest grounds of law and good sense"—*Wytt v Rooplal Mullick*, 1b 155, per Grant, J.

CHRONOLOGICAL TABLE OF THE STATUTES RELATING TO INDIA.

VOLUME I—UP TO THE END OF 1887

Year.	Regnal No and Chapter	Short title or subject.	How repealed or otherwise affected	REMARKS
1297	25 Edw 1, c 1	Magna Carta		See p 1
„	25 Edw 1, c 29	Magna Carta		See p 1
1331	5 Edw 3, c 9	Unlawful attachment		See p 1
1354	28 Edw 3, c 3	Non condemnation without due process		See p 2.
1540	32 Hen 8, c 34	Grantees of reversions		See p. 2.
„	32 Hen 8, c 38	Degrees of consanguinity	Rep as concerning pre-contracts 2 & 3 Edw 6, c 23, s 1	See p 4 Only the last clause of the Statute dealing with degrees of consanguinity is reproduced.
1551 2	5 & 6 Edw 6, c 16	The Sale of Offices Act, 1551	Ext throughout British Dominions, 49 Geo 3, c 126 Rep pt. (so far as regards the Revenue of Customs or Offices in the Service of the Customs), 6 Geo 4, c 105, s 10 ss 5, 6, rep (Eng) 26 & 27 Vict., c 125 (S L R)	See p 4 S 5 omitted as being spent and s 6 omitted as not being applicable to India.
1677	29 Chas II, c 3	The Statute of Frauds, ss 7 to 11		See p 6
1679	31 Chas II, c. 2	The Habeas Corpus Act, 1679	S 14 rep (E) 26 & 27 Vict c 125 (S L R.) S 19 rep 56 & 57 Vict., c. 61, s 2 (U K)	See p 7. Omitted as being spent.

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected.	REMARKS.
1688	1 W & M, c 6	Coronation Oath		See p 14
1698	10 W 3, c 22.	Posthumous children	S 2 rep (U K) 30 & 31 Vict., c 59 (S L R)	See p 16 Omitted as being spent
„	11 W 3, c. 12	Crime in plantations.		See p 17
1701	12 & 13 W 3, c 2	The Act of Settlement.	S 3 rep in pt. 4 & 5 Anne, c 20, ss 27, 28, 1 Geo 1, Sess 2, c 51, 7 & 8 Vict., c 66, s 1, 44 & 45 Vict., c 59, s 3 (S L R)	See p 18 The last paragraph of s 3 about the royal pardon not being pleadable to impeachment by the Commons and s. 4, confirming the laws of the realm, omitted as being inapplicable to India.
1702	1 Anne, c 2	Demise of the Crown	Ss 1-3 rep 30 & 31 Vict., c 59 (U K.) (S L R) S 5 rep pt. 30 & 31 Vict., c 59 (U K) (S L R) S 6 rep pt. 34 & 35 Vict., c 116 (U K) (S L R) S 7 rep 30 & 31 Vict., c 59 (U K) (S L R)	See p 20 Omitted as being spent. Omitted as being spent. Omitted as being superseded by 1 Edw 7, c 5 Omitted as being spent.
1707	6 Anne, c 41, s 8	Demise of the Crown		See p 21 Only the portion relating to the Privy Council reproduced
1708	7 Anne, c 5	The Foreign Protestants' Naturalisation Act, 1708	Whole, except part of s 3, rep 10 Anne, c 9	See p 22
1730	4 Geo 2, c 21	The British Nationality Act, 1730	S 3 rep (U K.) 30 & 31 Vict., c 59 (S L R)	See p. 22. Omitted as being partly spent and partly inapplicable to India.

Chronological Table

STATUTES RELATING TO INDIA—*contd.*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected.	REMARKS
1770.	10 Geo 3, c 47	The East India Company Act, 1770	S 1 rep 33 Geo. 3, c 52, s 146 S 3 rep (U K.) 50 & 51 Vict., c 59 (S L R) S 5 rep (U K.) 56 & 57 Vict., c 61 S 6 rep (U K.) 50 & 51 Vict., c 59 (S L R) S 7 rep (U K.) 50 & 57 Vict., c 61	See p 24 Omitted as being obsolete and inapplicable to India Omitted as being inapplicable to India. Omitted as being inapplicable to India
1772	13 Geo 3, c 21	The British Nationality Act, 1772	S 3 rep 34 & 35 Vict., c 48	See p 25
"	13 Geo 3, c 63	The East India Company Act, 1772	Rep pt. 24 Geo 3, Sess 2, c 25, s 47, 33 Geo 3, c 52, s 146 Ss 1—6 rep (U K.) 50 & 51 Vict., c 59 (S L R) S 9 rep pt. 33 Geo 3, c 52, s 146 Ss 9, 10 rep pt 55 & 56 Vict., c. 19 (S L R) S 11 rep (U K.) 50 & 51 Vict., c 59 (S L R) S 12 rep 55 & 56 Vict., c 19 (S L R) S 16 rep 55 & 56 Vict., c 19 (S L R), rep also (B L) XIV of 1870 S 18 rep 55 & 56 Vict., c 19 (S L R), rep also (B I) VI of 1874. S 19 rep 55 & 56 Vict., c 19 (S L R), rep also (B I) XIV of 1870 S 20 rep (U K.) 50 & 51 Vict., c 59 (S L R), rep also (B L) XIV of 1870	See p 27 Omitted as being obsolete and inapplicable to India

Chronological Table

STATUTES RELATING TO INDIA—*contd.*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1772	13 Geo 3, c. 63— <i>contd</i>		<p>Ss 21 & 22 rep (U K) 50 & 51 Vict, c 59 (S L R)</p> <p>S 26 rep 24 Geo 3, Sess 2, c 25, s 47, and 33 Geo 3, c 52, s 146</p> <p>Ss 27—29 rep 24 Geo 3, Sess 2, c 25, s 47, and 33 Geo 3, c 52, s 146, rep also (B I) XIV of 1870</p> <p>S 30 rep (U K) 50 & 51 Vict, c 59 (S L R), rep also (B I) XXVIII of 1855</p> <p>S 31 rep (U K) 50 & 51 Vict., c. 59 (S L R), rep also (B I) XIV of 1870</p> <p>S 32 rep 33 Geo 3, c 52, s 146</p> <p>S 33 rep (B I) XIV of 1870</p> <p>S 34 rep (U K) 50 & 51 Vict, c 59 (S L R), rep also (B I) X of 1875</p> <p>S 35 rep (U K) 50 & 51 Vict., c 59 (S L R)</p> <p>S. 36 rep 55 & 56 Vict, c 19 (S L R), rep also (B I) XIV of 1870</p> <p>S 38 rep 55 & 56 Vict, c 19 (S L R), rep also (B I) X of 1882</p> <p>Ss 40 to 45 ext 22 & 23 Vict, c 21, s 16</p> <p>S 46 rep 55 & 56 Vict, c. 19 (S L R)</p> <p>S 47 rep (U K.) 50 & 51 Vict, c 59 (S L R)</p>	<p>Omitted as being obsolete.</p> <p>Omitted as being inapplicable to India</p>
1780	21 Geo 3, c 70	The East India Company Act, 1780	<p>Ss 9—16, 19—20, rep 55 & 56 Vict, c 19 (S L R), rep also (B I) XIV of 1870</p> <p>Ss. 27, 28 rep 35 & 36 Vict, c 63 (S L R)</p>	See p 36

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected.	REMARKS
1784	24 Geo 3, Sess 2, c 25	The East India Company Act, 1784	Ss 1—63 rep 35 & 36 Vict, c 63 (S L R) S 84 rep (U K.) 50 & 51 Vict, c 59 (S L R) S 85 rep (U K.) 50 & 51 Vict, c 59 (S L R)	See p 40 Omitted as being spent
1786	26 Geo. 3, c 57	The East India Company Act, 1786	S 29 rep 55 & 56 Vict, c 19 (S L R), rep also (B I) XI of 1872 S 30 rep 55 & 56 Vict, c 19 (S L R) S 31 rep 35 & 36 Vict, c 63 (S L R) Ss 32—35 rep 33 Geo 3, c 52, s 146 Ss 36, 37, rep 35 & 36 Vict, c 63 (S L R) S 38 rep in pt. 55 & 56 Vict, c 19 (S L R), rep also (B I) I of 1872 S 39 rep 55 & 56 Vict, c 19 (S L R)	See p 50
	26 Geo 3, c 62	The East India Company (Money) Act, 1783		Omitted as being probably spent
1788	28 Geo 3, c. 29	The East India Company (Money) Act, 1788		Ditto
1789	29 Geo 3, c 65	The East India Company (Money) Act, 1789		Ditto
1791	31 Geo 3, c 11	The East India Company (Money) Act 1791		Ditto
1793	33 Geo 3, c 47.	The East India Company (Money) Act, 1793.		Ditto

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject.	How repealed or otherwise affected.	REMARKS
1793	33 Geo 3, c 52.	The East India Company Act, 1793	<p>Rep in pt 24 & 25 Vict, c 54, s. 7, mod. XI of 1876, s 66</p> <p>Ss. 1—18 rep (U K.) 50 & 51 Vict, c 59 (S L R)</p> <p>S 20 virtually rep in pt. 53 Geo 3, c. 155, s 74.</p> <p>Ss 21, 23 rep (U K.) 50 & 51 Vict., c 59 (S L R)</p> <p>Ss 24, 25, rep in pt. 56 & 57 Vict, c 62</p> <p>S 25 rep in pt 56 & 57 Vict, c 62</p> <p>S 26 rep (U K.) 50 & 51 Vict., c. 59 (S L R)</p> <p>S 28 rep (U K.) 50 & 51 Vict, c 59 (S L R), rep also (B I) XII of 1873</p> <p>S 32 rep in pt 55 & 56 Vict., c 19 (S L R), and 56 & 57 Vict, c 62</p> <p>S 39 mod. (B I) II of 1834</p> <p>S 53 rep 2 & 3 Geo 5, c 6, s 4 & Sch Part II</p> <p>S 56 rep 24 & 25 Vict, c 54, s. 7</p> <p>S 57 rep 2 & 3 Geo 5, c 6, s 4 & Sch Part II</p> <p>S. 58 rep (U K) 50 & 51 Vict, c 59 (S L R)</p> <p>Ss 59, 60 rep (U K.) 50 & 51 Vict, c 59 (S L R)</p> <p>S 61 rep (U K.) 50 & 51 Vict., c 59 (S L R), rep also (B I.) XIV of 1870</p> <p>S 67 rep (B I) XI of 1872</p>	<p>See p 67</p> <p>Omitted as being inapplicable to India</p> <p>Ditto</p> <p>Ditto</p> <p>Omitted as being inapplicable to India,</p> <p>Reproduced as not having been repealed as to U K.</p>

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year.	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1793	33 Geo 3, c 52— <i>contd.</i>		<p>Ss 68, 69 rep (U K.) 50 & 51 Vict., c. 59 (S L R)</p> <p>S 70, mod 53 Geo 3, c 155, s 84.</p> <p>Ss. 71—136 rep 35 & 36 Vict, c 63 (S L R)</p> <p>S 137 rep pt (B I) Act XIV of 1870</p> <p>Ss 138, 139 rep 35 & 36 Vict, c 63 (S L R)</p> <p>S 140 rep pt (B I.) Act XIV of 1870</p> <p>Ss 142—150 rep 35 & 36 Vict, c 63 (S L R)</p> <p>S 151 rep pt 47 Geo 3, Sess. 2, c 68, s 6, rep also (B I) II of 1869</p> <p>S 152 rep (U K.) 50 & 51 Vict., c 59 (S L R), rep also (B I) II of 1869</p> <p>Ss 153, 154 rep (U K) 50 & 51 Vict, c 59 (S L R), rep also (B I) X of 1875</p> <p>S 155 rep (U K) 50 & 51 Vict, c 59 (S L R), rep also (B I) XIV of 1870</p> <p>S 157 rep 55 & 56 Vict, c 19 (S L R), rep also (B I) IV of 1871</p> <p>S 158 rep (U K.) 50 & 51 Vict, c. 59 (S L R)</p> <p>S 159 rep (U K.) 50 & 51 Vict, c 59 (S L R), rep also (B I) XIV of 1870</p> <p>S 160 rep (U K.) 50, & 51 Vict, c 59 (S L R)</p> <p>S 161 rep (U K) 4 & 5 W 4, c 33</p> <p>S 162 rep (B I) IX of 1871</p> <p>S 163 rep (U K.) 50 & 51 Vict, c 59 (S L R)</p>	<p>Omitted as being spent or inapplicable to India</p> <p>Omitted as being inapplicable to India.</p> <p>Ditto</p> <p>Ditto</p> <p>Ditto</p>

Chronological Table.

STATUTES RELATING TO INDIA--*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or other vic affected	Proviso
1701	34 Geo 3, c 41	The East India Company (Money) Act, 1701 c		See p 89
1797	37 Geo 3, c 142	The East India Act 1797	S 1 rep 55 & 56 Vict, c 19 (S L R) S 2 rep in pt 55 & 56 Vict, c 19 (S L R) S 3 rep 55 & 56 Vict, c 10 (S L R) Ss 4-8 rep 55 & 56 Vict, c 10 (S L R), rep also (B I) XIV of 1870 Ss 9, 10 rep 55 & 56 Vict, c 19 (S L R) S 15 rep 55 & 56 Vict, c 19 (S L R), rep also (B I) XIV of 1870 S 16 rep 55 & 56 Vict, c 19 (S L R), rep also (B I) VI of 1871 Ss 17-26, 30, rep 55 & 56 Vict, c 19 (S L R), rep also (B I) XIV of 1870	See p 90
1800	39 & 40 Geo 3, c 79	The Government of India Act, 1800	S 4 rep 55 & 56 Vict, c 19 (S L R), rep also (B I) XIV of 1870 S 5 rep in pt 55 & 56 Vict, c 19 (S L R) S 6 rep 55 & 56 Vict, c 19 (S L R), rep also (B I) XIV of 1870 S 8 rep (B I) XIV of 1870 Ss 10, 11 rep 55 & 56 Vict, c 19 (S L R), rep also (B I) XIV of 1870 S 12 rep in pt 55 & 56 Vict, c 19 (S L R) Ss 13-16 rep 9 Geo 4, c 74, s 126	See p 91

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject.	How repealed or otherwise affected	REMARKS
1800	39 & 40 • Geo 3, c 79— <i>contd</i>		Ss 17—19, 21—24 rep 55 & 56 Vict, c 19 (S L R), rep also (B I) XIV of 1870 S 25 rep 57 & 58 Vict, c 39, s 5	
1802	42 Geo 3, c 85	The Criminal Jurisdiction Act, 1802	S 6 rep in pt (U K) 56 & 57 Vict, c 61, s 2, rep also (B. I) XII of 1873	See p 100
1809	49 Geo 3, c 126	The Sale of Offices Act, 1809	S 1 rep pt (U K) 35 & 36 Vict, c 97 (S L R) Ss 7, 8 rep (U K) 35 & 36 Vict, c 97 (S L R) S 9 rep pt (U K) 35 & 36 Vict, c 97 (S L R) S 12 rep (U K) 35 & 36 Vict, c. 97 (S L R) S 15 rep (U K) 35 & 36 Vict, c 97 (S L R)	See p 105 Omitted as being obsolete and inap- plicable to India Omitted as being inapplicable to India and also spent Omitted as being spent
1811	51 Geo 3, c 64	The East India Company Bonds Act, 1811	Ss 1—3 rep 36 & 37 Vict, c. 91 (S L R) S 5 rep (U K) 50 & 51 Vict, c 59 (S L R)	See p 111 Reproduced with note
1812	52 Geo 3, c 150	The Prisoners of War (Escape) Act, 1812		See p 113
1813	53 Geo 3, c 155	The East India Company Act, 1813	Ss 1—32 rep 36 & 37 Vict, c 91 (S L R) Ss 33 to 39 rep 37 & 38 Vict, c 35 (S L R) Ss 40, 41, 44 to 48 rep 36 & 37 Vict, c 91 (S L R) S 51 am 15 & 16 Vict, c 52, s 1	See p 114

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter.	Short title or subject.	How repealed or otherwise affected	REMARKS
1813	53 Geo 3, c. 155— <i>contd.</i>		<p>Ss 54 to 78, 80, 81, 83, 87, 88 rep 36 & 37 Vict, c 91 (S L R)</p> <p>S 89 rep in pt 41 & 42 Vict, c 79 (S L R)</p> <p>Ss 90—92, 95 rep 36 & 37 Vict, c. 91 (S L R)</p> <p>S 97 rep 53 & 54 Vict, c 33 (S L R), rep also (B I) XII of 1873</p> <p>Ss 98 & 99 rep 53 & 54 Vict, c. 33 (S L R), rep also (B I) XIV of 1870</p> <p>Ss 100—103 rep 53 & 54 Vict, c 33 (S L R), rep also (B I) X of 1895</p> <p>S 104 rep 53 & 54 Vict, c. 33 (S L R), rep also (B I) XIV of 1870</p> <p>S 105 rep 53 & 54 Vict, c 33 (S L R), rep also (B I) X of 1882</p> <p>S 106 rep 53 & 54 Vict, c 33 (S L R)</p> <p>S 107 rep 53 & 54 Vict, c 33 (S L R), rep also (B I) XI of 1836</p> <p>Ss 108, 109 rep 53 & 54 Vict, c 33 (S L R), rep also (B I) XIV of 1870</p> <p>S 110 rep 53 & 54 Vict, c. 33 (S L R)</p> <p>S 112 rep 36 & 37 Vict, c 91 (S L R), rep also (B I) II of 1869</p> <p>S 113 rep 36 & 37 Vict, c 91 (S L R), rep also (B I) XIV of 1870</p> <p>Ss 114—120 rep 36 & 37 Vict, c. 91 (S L R)</p> <p>S 121 rep 36 & 37 Vict, c 91 (S L R), rep also (B I) XII of 1873</p>	

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject.	How repealed or otherwise affected	REMARKS
1813.	53 Geo 3, c 155— <i>concl'd</i>		S 122 rep 36 & 37 Vict, c 91 (S L R), rep also (B I) XIV of 1870 S 123 rep 37 & 38 Vict., c 35 (S L R), rep also (B I) XII of 1873 S 124 rep 53 & 54 Vict, c 33 (S L R), rep also (B I) IX of 1871 S 125 rep 36 & 37 Vict, c 91 (S L R)	
1815	55 Geo 3, c 84	The Indian Presidency Towns Act, 1815	The whole Act except s. 1 rep 36 & 37 Vict, c 91 (S L R)	See p 126
1819	59 Geo 3, c. 60	The Ordination for Colonies Act, 1819	Ss 2—5 rep 37 & 38 Vict, c 77 S 6 rep 36 & 37 Vict, c. 91 (S L R)	See p 127
1820	1 Geo 4, c 101	The Divorce Bills Evidence Act, 1820		See p 128
1823	4 Geo 4, c 71	The Indian Bishops and Courts Act, 1823	Ss 1, 2 rep 36 & 37 Vict, c 91 (S L R) S 3 rep in pt. 43 Vict, c 3, s 5 Ss 8—10 rep 36 & 37 Vict., c 91 (S L R), rep also (B I) XIV of 1870 Ss 12, 13 rep 53 & 54 Vict, c 33 (S L R) Ss 14—16 rep 36 & 37 Vict., c 91 (S L R), s 14 rep also (B I) XIV of 1870 S 18 rep 36 & 37 Vict, c 91 (S L R)	See p 130
„	4 Geo 4, c 80	The Lascars Act, 1823	Rep except as to <i>lascars</i> etc 3 & 4 Will 4, c 93 Ss 1—24 rep 36 & 37 Vict, c. 91 S L R)	See p 133

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1823	4 Geo 4, c 80— <i>contd</i>		S 27 and in part 28 rep 57 & 58 Vict, c 60 Ss 29, 30 rep (U K) 54 & 55 Vict, c 67 S 33 rep (U K) 56 & 57 Vict, c 61 S 34 rep 57 & 58 Vict, c 60	Omitted as being inapplicable to India Omitted as being obsolete
1824	5 Geo 4, c 113	The Slave Trade Act, 1824	Ext 67 Vict, c 98 S 1 rep 36 & 37 Vict, c 88, s 30 Ss 2-9 rep pt (U K) 51 & 54 Vict, c 33 (S L R) S 9 rep pt (U K) 51 & 52 Vict c 37 (S L R) Ss. 10, 11 rep pt (U K.) 53 & 54 Vict, c 33 (S L R) S 12 in pt and ss 13— 38, 41—46 and 48—82 rep 36 & 37 Vict, c 88, s 30	See p 136
1825	6 Geo 4, c 78	The Quarantine Act, 1825	Whole Act rep (U K.) 59 & 60 Vict, c 19, s 6 S 1 rep 36 & 37 Vict., c 91 (S L R)	See p 144 S 37 omitted as being inapplicable to India
"	6 Geo 4, c. 85	The Indian Sala- ries and Pensions Act, 1825	The whole Act, except s 4 in pt. and s 5 & in part s 15 rep 53 & 54 Vict., c 33 (S L R) S 5 rep in pt. 41 & 42 Vict., c 79 (S L R) and 51 & 52 Vict, c 57 (S L R) S 6 rep also (B I) XIV of 1870	See p 163

*Chronological Table*STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter,	Short title or subject.	How repealed or otherwise affected	REMARKS
1826	7 Geo 4, c 56	The East India Officers' Act, 1826	Whole, except s 3 rep 36 & 37 Vict, c 91 (S L R)	See p 165.
1828	9 Geo 4, c 74	The Criminal Law (India) Act, 1828	Whole, except portion of s 1 and ss 7, 8, 9, 25, 26, 56 and 110 rep 53 & 54 Vict., c 33 (S L R), rep also (B I) X of 1875 S 110 rep except so far as in force in the Straits Settlements, 53 & 54 Vict, c 33 (S L R)	See p 166
1830	11 Geo 4, and 1 Will 4, c 46	The Illusory Appointments Act, 1830	Ext (B I) XXIV of 1841	See p 169
"	11 Geo 4, and 1 Will 4, c 47	The Debts Recovery Act, 1830	Ext (B I) XXIV of 1841	See p 170
"	11 Geo 4, and 1 Will 4, c 65	The Infants' Property Act, 1830	So much of this Act as relates to idiots, lunatics and persons of unsound mind or their property, rep, except so far as relates to Ireland, 16 & 17 Vict., c 70, s 1, rep so far as it relates to Ireland, S L R Act, 1873 Ext. (B I.) XXIV of 1841 S 1 rep (U K.) 36 & 37 Vict, c 91 (S L R) S 11 rep (U K.) 37 & 38 Vict, c 35 (S L R) S 12 rep in pt 37 & 38 Vict., c 35 (S L R) Ss 13, 19 and in pt 21 rep (U K.) 36 & 37 Vict., c 91 (S L R)	See p 171 Omitted as being spent Omitted as being inapplicable to India Ditto

Chronological Table

STATUTES RELATING TO INDIA—*contd.*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1830	11 Geo 4, and 1 Will 4, c 65— <i>contd</i>		S 22 rep (U K) 37 & 38 Vict., c 35 (S L R) Ss 23—25 and in pt 26 rep (U K) 36 & 37 Vict., c 91 (S L R.) Ss 27—30, 33, 34 rep (U K.) 36 & 37 Vict., c 91 (S L R) S 37 rep (U K) 37 & 38 Vict., c 35 (S L R) S 38 rep in pt. (S L R) Act, 1874 S 39 rep (U K) 37 & 38 Vict., c 35 (S L R.) Ss 40—42 rep (U K) 36 & 37 Vict., c 91 (S L R) S 43 rep (U K) 37 & 38 Vict., c 35 (S L R)	Omitted as being inapplicable to India Ditto Ditto Ditto Ditto Ditto Ditto
„	1 Will 4, c 4	The Colonial Offices Act, 1830	S 1 rep (U K.) 37 & 38 Vict., c 35 (S L R.)	See p 180 Omitted as being spent.
1831	1 Will 4, c 22	The Evidence on Commission Act, 1831	Ext. 22 & 23 Vict., c 21, s 16 Ss. 3—5, 8—11 rep (U K) 46 & 47 Vict., c 49, s 3, but see s 7	See p 180 Omitted as being obsolete or inapplicable to India
1832	2 & 3 Will 4, c 53	The Army Prize Money Act, 1832	S 1 rep (U K.) 37 & 38 Vict., c 35 (S L R)	See p 182 Omitted as being spent. S 2 in part and s 29 in part and the whole of the residue omitted as being inapplicable to India.
1833	3 & 4 Will 4, c 15	The Dramatic Copyright Act, 1833	Am 51 & 52 Vict., c 17, s 1	See p 183

¹ The Act is repealed by the Copyright Act, 1911 (1 and 2 Geo. 5, c 46) which will come into operation in India when it is proclaimed. See 1 and 2 Geo. 5, c 46 ss 25, 27 (2) (d), 36 and the Second Schedule.

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject.	How repealed or otherwise affected	REMARKS
1833	3 & 4 Will 4, c 41	The Judicial Committee Act, 1833	S 1 am 50 & 51 Vict, c 70, rep pt 37 & 38 Vict., c 35 (S L R), 51 & 52 Vict, c 57 (S L R) S 2 rep 53 & 54 Vict, c 27, s 18 S 5 am and rep pt. 14 & 15 Vict, c 83, s 16 Ss 22 & 25—27 rep (U K) 24 & 25 Vict, c 101 (S L R) S 28 rep pt. 6 & 7 Vict, c 38, s 6 S 29 rep (U K) 38 & 39 Vict., c 66 (S L R) S 30 am 50 & 51 Vict, c 70	See p 185 Omitted as being inapplicable to India Ditto
„	3 & 4 Will 4, c 85	The Government of India Act, 1833	Made perpetual 16 & 17 Vict, c 95, s 1 Ext. 55 & 56 Vict., c 14, s 3 Ss 3—18 rep 37 & 38 Vict., c 35 (S L R) S 19 rep 53 & 54 Vict, c 33 (S L R) Ss 20—24, 26—35, 37 rep 37 & 38 Vict, c 35 (S L R) S 38 suspended, 16 & 17 Vict., c 95, s 15 S 40 rep 24 & 25 Vict, c 67, s 2 Ss 41 & 42 rep 37 & 38 Vict, c 35 (S L R) Ss 43 & 44 rep 24 & 25 Vict, c 67, s 2 S 48 rep pt. 53 & 54 Vict, c 33 (S L R) S 49 rep 33 & 34 Vict., c 3, s. 4 S 50 rep 24 & 25 Vict., c 67, s 2 Ss 53—55, 56 in pt, 58 & 60 rep 37 & 38 Vict., c 35 (S L R)	See p 191

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject.	How repealed or other wise affected	REMARKS
1833	3 & 4 Will 4, c 85— <i>contd</i>		<p>S 61 rep in pt 24 & 25 Vict, c 67, s 2</p> <p>S 62 rep in pt 2 & 3 Geo 5, c 6, s 4 & Sch Part II</p> <p>Ss 62, 63 am 0 Edw 7, c 4, s 4</p> <p>S 63 rep in pts 56 & 57 Vict, c 62, s 2</p> <p>S 64 rep 53 & 54 Vict, c 33 (S L R)</p> <p>S 66 rep 24 & 25 Vict, c 67, s 2</p> <p>S 69 rep 53 & 54 Vict, c 33 (S L R)</p> <p>S 70 rep 24 & 25 Vict, c 67, s 2</p> <p>S 71 rep 2 & 3 Geo 5, c 6 s 4 & Sch Part II</p> <p>S 72 rep 37 & 38 Vict, c 35 (S L R)</p> <p>Ss 74, 75 rep pt 53 & 54 Vict, c 33 (S L R)</p> <p>S 76 rep pt. 43 Vict, c 3, s 5</p> <p>Ss 81—83, 85 rep 53 & 54 Vict, c 33 (S L R)</p> <p>S 88 rep (U K.) 51 & 52 Vict., c 57 (S L R)</p> <p>S 91 rep 43 Vict., c 3, s 5</p> <p>S 95 rep 53 & 54 Vict, c 33 (S L R)</p> <p>Ss 103—107 rep 16 & 17 Vict, c 95, s 36</p> <p>Ss 108—111, 113—117 rep 37 & 38 Vict., c 35 (S L R)</p>	Omitted as being obsolete
1834	4 & 5 Will 4, c 24	The Superannua- tion Act, 1834	<p>Am 50 & 51 Vict, c 67</p> <p>Preamble rep 51 & 52 Vict, c 57 (S L R)</p> <p>Ss 1—5 rep 32 & 33 Vict c 60, s 9</p> <p>S 6 appld, 32 & 33 Vict, c 60, s 7, rep pt. 51 & 52 Vict., c 57 (S L R)</p>	See p 206

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1834	4 & 5 Will 4, c 24— <i>contd</i>		S 7 rep 32 & 33 Vict, c 60, s 9 S 8 rep (U K) 37 & 38 Vict, c 35 (S L R) Ss 10, 11, 13—15, rep 22 Vict, c 26, s 1 S 16 rep 50 & 51 Vict, c 67, s 14 Ss 17, 19 & 24 rep 22 Vict, c 26, s 1 S 27 rep 20 & 21 Vict, c 37 S 28 in part and ss 29 and 31 and sch rep (U- K.), 37 & 38 Vict., c 35 (S L R)	Omitted as being inapplicable to India Omitted as being inapplicable to India
1835	5 & 6 Will 4, c 52	The India (North- West Provinces) Act, 1835	Ss 1 and in part 2 rep 53 & 54 Vict, c 33 (S L R)	See p 210
"	5 & 6 Will 4, c 64	The Stamp Duties Act, 1835	Ss 1 & 2 rep (U K.) 33 & 34 Vict, c 99 S 3 rep (U K) 37 & 38 Vict., c 35 (S L R) S 5 rep 23 & 24 Vict, c 5, s 2 S 6 rep (U K) 37 & 38 Vict., c 35 (S L R) S 7 rep (U K.) 33 & 34 Vict., c 99 Ss 8 & 9 rep 32 & 33 Vict., c. 14, s 39 Ss 10—13 rep 43 & 44 Vict., c. 19, s. 4 Ss 14—17 rep 32 & 33 Vict, c. 14, s. 39	See p 211 Omitted as being inapplicable to India Ditto Ditto Ditto
1837	7 Will 4 & 1 Vict., c 47	The India Offi- cers' Salaries Act, 1837	• •	See p 212
1840	3 & 4 Vict., c 105, ss 66, 67	The Debtors (Ire- land) Act, 1840		See p 213 •

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1842	5 & 6 Vict., c 45	The Copyright Act, 1842	S 1 rep (U K) 37 & 38 Vict., c 96 (S L R) S 13 rep pt (U K) 51 & 52 Vict., c 57 (S L R) S 14 rep pt (U K) 56 & 57 Vict., c 14 (S L R) Ss 16, 17 rep pt. (U K) 51 & 52 Vict., c 57 (S L R) S 26 rep (U K) 56 & 57 Vict., c 61, s 2 S 30 rep (U K) 37 & 38 Vict., c 96 (S L R)	See p 214 Omitted as being spent and inapplicable to India Omitted as being spent See p 227
"	5 & 6 Vict., c 119	The Indian Bishops Act, 1842		
1843	6 & 7 Vict., c 22	The (Colonies) Evidence Act, 1843	S 2 rep (U K) 37 & 38 Vict., c 96 (S L R)	See p 228 Omitted as being spent.
"	6 & 7 Vict., c 38	The Judicial Committee Act, 1843	S 1 rep (U K) 54 & 55 Vict., c 67 (S L R) Ss 2, 3 rep in pt 53 & 54 Vict., c 27, s 18 S 4 rep (U K) 37 & 38 Vict., c 96 (S L R) S 5 rep pt 53 & 54 Vict., c 27, s 18 S 6 rep (U K) 37 & 38 Vict., c 96 (S L R) S 7 rep pt. 53 & 54 Vict., c 27, s 18 S 8 rep (U K) 37 & 38 Vict., c 96 (S L R) Ss 9 & 10 rep in pt 53 & 54 Vict., c 27, s 18 S 11 rep pt (U K) 37 & 38 Vict., c 96 (S L R) S 12 rep pt 53 & 54 Vict., c 27, s 18 S 13 rep (U K) 42 & 43 Vict., c 59	See p 229 Omitted as being inapplicable to India Omitted as being spent. Ditto Omitted as being obsolete Omitted as being inapplicable to India

¹ The Act is repealed by the Copyright Act, 1911 (1 and 2 Geo 5, c 46) which will come into operation in British India when it is proclaimed see 1 and 2 Geo 5, c 46, ss 25, 37 (2) (d), 36 and the second Schedule.

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter.	Short title or subject	How repealed or otherwise affected	REMARKS
1847	10 & 11 Vict., c 62— <i>contd</i>		S 14 except in so far as it relates to a proceeding under s 9 rep (U K.) 55 & 56 Vict., c 19 (S L R) S 15 rep (U K.) 55 & 56 Vict., c 19 (S L R) S 17 rep (U K.) 38 & 39 Vict., c 66 (S L R)	Omitted as being inapplicable to India Omitted as being spent
"	10 & 11 Vict., c 95	The Colonial Copyright Act, 1847	S 3 rep (U K.) 38 & 39 Vict., c 66 (S L R)	See p 247 Omitted as being spent
1849	12 & 13 Vict., c 25	The Portuguese Deserters' Act, 1849	S 2 rep in pt. 39 & 40 Vict., c 20, s 2	See p 248.
"	12 & 13 Vict., c 96	The Admiralty Offences (Colonial) Act, 1849	S 2 rep 54 & 55 Vict., c. 67 (S L R) S 5 am and rep pt 23 & 24 Vict., c 88, s 1 and 44 & 45 Vict., c 59, s 3 S 6 rep 41 & 42 Vict., c 79 (S L R)	See p 249 S 4 is omitted as being inapplicable to India.
1850	13 & 14 Vict., c 26.	The Piracy Act, 1850	S 1 rep (U K.) 38 & 39 Vict., c 66 (S L R) S 2 rep pt (U K.) 38 & 39 Vict., c 66 (S L R) S 4 rep 38 & 39 Vict., c 66 (S L R) S 5 rep pt (U K.) 38 & 39 Vict., c 66 (S L R) S 7 rep 38 & 39 Vict., c 66 (S L R)	See p 251 Omitted as being spent Omitted as being inapplicable to India. Omitted as being spent.
1851	14 & 15 Vict., c 81	The Lunatics Removal (India) Act, 1851		See p 253

¹ This Act is repealed by the Copyright Act 1911 (1 and 2 Geo 5 c 46) which will come into operation in British India when it is proclaimed see 1 and 2 Geo 5, c 46, ss 25, 37 (2) (d), 30 and the Second Schedule.

*Chronological Table*STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject.	How repealed or otherwise affected	REMARKS
1851	14 & 15 Vict., c 83, s. 16	The Court of Chancery Act, 1851	Rep pt (U K.) 38 & 39 Vict., c 66 (S. L. R.)	See p 256
1852	15 & 16 Vict., c, 12	The International Copyright Act, 1852	Am 38 & 39 Vict., c. 12 Ss 1—5, 8, 11 rep 49 & 50 Vict., c 33, s 12 Ss 12 & 13 rep 38 & 39 Vict., c 66 (S L R.)	See p 257
„	15 & 16 Vict., c. 52	The Colonial Bishops Act, 1852	Ext. 16 & 17 Vict., c. 49	See p 259
1853	16 & 17 Vict., c 48	The Coinage (Co lonial Offences) Act, 1853	S 2 rep pt. 55 & 56 Vict., c 19 (S L R.)	See p 261.
„	16 & 17 Vict., c 49	The Colonial Bishops Act, 1853		See p 262
„	16 & 17 Vict., c 95	The Government of India Act, 1853	Am 55 & 56 Vict., c. 14, s. 3 S 1 rep 55 & 56 Vict., c 19 (S L R.) Ss 2—14 rep 41 & 42 Vict., c 79 (S L R.) S 16 rep pt 55 & 56 Vict., c. 19 (S L R.) S 18 rep 28 & 29 Vict., c. 17, s 3 Ss 20 & 21 rep 41 & 42 Vict., c 79 (S L R.) Ss 22—24 rep 24 & 25 Vict., c 67, s 2. S 25 rep 41 & 42 Vict., c. 79 (S L R.) S 26 rep 24 & 25 Vict., c 67, s 2. S 28 rep 55 & 56 Vict., c. 19 (S L R.) Ss. 29—31, 33 & 34, 35 in pt & 36—43 rep 41 & 42 Vict., c. 79 (S. L. P.)	See p 263

*Chronological Table.*STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1853	16 & 17 Vict., c 107, s. 329	The Customs Consolidation Act, 1853		See p 266
1854	17 & 18 Vict., c 77	The Government of India Act, 1854	S 1 rep (U K) 55 & 56 Vict., c 19 (S L R) Ss 2, 6 rep 41 & 42 Vict, c 79 (S L R)	See p 267 Omitted as being obsolete
"	17 & 18 Vict., c 80, s 58	The Registration of Births, Deaths and Marriages (Scotland) Act, 1854	Am 10 Edw 7 & 1 Geo 5, c 32	See p 268
1856	19 & 20 Vict., c 113	The Foreign Tribunals Evidence Act, 1856	S 6, proviso rep 44 & 45 Vict., c 49	See p 269.
1858	21 & 22 Vict., c 3	The East India Loans Act, 1858	Ss 4, 6 rep pt (U K) 38 & 39 Vict., c 66 (S L R) S 7 rep (U K) 38 & 39 Vict., c 66 (S L R) S 10 rep 55 & 56 Vict, c 19 (S L R) S 11 rep 37 & 38 Vict, c 3, s 15	See p 271 Omitted as being probably obsolete
.	21 & 22 Vict., c 106	The Government of India Act, 1858	Am 22 & 23 Vict., c 41 S 4 am 27 & 28 Vict., c 34 S 5 rep 41 & 42 Vict., c 79 (S L R) S 7 am 7 Edw 7, c 35, s 1 S 8 rep 41 & 42 Vict., c 79 (S L R) S 9 rep 55 & 56 Vict, c 19 (S L R) Ss 10, 13 am 7 Edw 7, c 35, ss 2, 3 S 14 rep 32 & 33 Vict, c 97, s 5 S 16 rep pt 55 & 56 Vict., c 19 (S L R)	See p 272

*Chronological Table*STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1860	23 & 24 Vict., c. 88	The Admiralty Jurisdiction (India) Act, 1860	S 1 rep pt (U K) 38 & 39 Vict., c 66 (S L R)	See p 301,
"	23 & 24 Vict., c. 89	The Superannuation Act, 1860		See p 302.
"	23 & 24 Vict., c. 100	The European Forces (India) Act, 1860	S 1 rep pt. (U K) 61 & 62 Vict., c 22 (S L R)	See p 302
"	23 & 24 Vict., c. 102	The East India Stock Act, 1860	Ss 1—5 rep (U K) 38 & 39 Vict., c 66 (S L R)	See p 303 Omitted as being inapplicable to India
"	23 & 24 Vict., c. 122	The Admiralty Offences (Colonial) Act, 1860		See p 304
"	23 & 24 Vict., c. 130	The East India Loan Act, 1860	S 13 rep 55 & 56 Vict., c 19 (S L R) S 14 rep 37 & 38 Vict., c 3, s 15	See p 304
1861	24 & 25 Vict., c 3	The Bank of England Act, 1861	S 4 rep pt. (U K.) 55 & 56 Vict., c 19 (S L R) The whole Act, except ss 4, 5, 9, 10 rep 55 & 56 Vict., c. 48, s 8	See p 307 Ss 4, 5, 9 omitted as being inapplicable to India
"	24 & 25 Vict., c 11	The Foreign Law Ascertainment Act, 1861		See p 308.
"	24 & 25 Vict., c 25	The East Indian Loan Act, 1861	S 14 rep 37 & 38 Vict., c 3, s 15	See p 310
"	24 & 25 Vict., c 54.	The Indian Civil Service Act, 1861	S 1 rep 55 & 56 Vict., c 19 (S L R)	See p 311
"	24 & 25 Vict., c 67	The Indian Councils Act, 1861	Am, 9 Edw 7, c 4. S 2 rep in pt 55 & 56 Vict., c 19 (S L R)	See p 313

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject.	How repealed or other- wise affected	REMARKS
1861	24 & 25 Vict., c 67— <i>contd</i>		<p>S 3 rep in pt. 41 & 42 Vict., c 79 (S L R), am 37 & 38 Vict., c 91, s 1</p> <p>S 9 am, 33 & 34 Vict., c 3, s 3</p> <p>S 10 rep pt 9 Edw 7, c 4.</p> <p>S 11 rep pt 9 Edw 7, c 4</p> <p>S 13 rep 55 & 56 Vict., c 14, s 4</p> <p>S 15 rep pt, 9 Edw 7, c 4.</p> <p>Ss 16 & in pt. 17 rep 55 & 56 Vict., c 19 (S L R)</p> <p>S 22 am. 55 & 56 Vict., c 14, s 3, 32 & 33 Vict., c 98, s 3, ext. 28 & 29 Vict., c 17, s 1, 32 & 33 Vict., c 98, s 1</p>	

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1861	24 & 25 Vict., c 97, ss 42, 43 and 56 — <i>contd</i>		S 56 rep pt (U K) 56 & 57 Vict., c 54 (S L R)	
"	24 & 25 Vict., c 104	The Indian High Courts Act, 1861	S 1 rep 55 & 56 Vict., c 19 (S L R) S 2 am 1 & 2 Geo 5, c 18, s 1 Ss 3 and in pt. 5, and 6 rep 41 & 42 Vict., c 79 (S L R) S 8 rep pt. 55 & 56 Vict., c 19 (S L R) S 10 rep 28 & 29 Vict., c 15, s 1 S 16 am 1 & 2 Geo 5, c 18, s 2 S 17 rep (U K) 56 & 57 Vict., c 14 (S L R) S 18 rep 28 & 29 Vict., c 15, s 2	See p 329 Omitted as being spent. See p 333
"	24 & 25 Vict., c 114	The Wills Act, 1861		See p 334
"	24 & 25 Vict., c 121	The Domicile Act, 1861		See p 336
1862	25 & 26 Vict., c 7	The India Stock Transfer Act, 1862	Preamble and in pt ss 2 to 15 rep (U K) 56 & 57 Vict., c 14 (S L R)	See p 342
"	25 & 26 Vict., c 20	The Habeas Corpus Act, 1862		See p 342
"	25 & 26 Vict., c 39	Red Sea and India Telegraph Company		See p 347
"	25 & 26 Vict., c 68	The Fine Arts Copyright Act, 1862	Preamble & in pt s 8 rep (U K.) 56 & 57 Vict., c 14 (S L R)	

1. Section 1 of the Act of 1862 is repealed by the Copyright Act, 1911 (1 and 2 Geo 5, c 46), s 11, but shall come into operation in British India when it is proclaimed. See 1 and 2 Geo 5, c 46, s 11.

2. The Act of 1862 is repealed by the Copyright Act, 1911 (1 and 2 Geo 5, c 46), s 11, but shall come into operation in British India when it is proclaimed. See 1 and 2 Geo 5, c 46, s 11.

Chronological Table.

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1862	25 & 26 • Vict, c 68— <i>contd</i>		S 12 rep 49 & 50 Vict, c 33, s 12, in so far as it incorporates any enactment repealed by that Act.	
1863	26 & 27 Vict, c 76	The Colonial Letters Patent Act, 1863	S 4 rep 38 & 39 Vict, c 66 (S L R) S 5 rep (U K) 56 & 57 Vict, c 4 (S L R)	See p 352
1864	27 & 28 Vict, c. 25	The Naval Prize Act, 1864	S 2 rep pt (U K) 56 & 57 Vict, c 14 (S L R) S 13 rep 57 & 58 Vict, c 39, s 3 (3) S 51 rep (U K) 56 & 57 Vict, c 61, s 2 S 56 rep (U K) 56 & 57 Vict, c 11 (S L R)	See p 353 Omitted as being spent
„	27 & 28 Vict, c 50	India Stock Transfer	Rep (U K) 56 & 57 Vict, c 14 (S L R)	Omitted as being spent
„	27 & 28	India Office Site		

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected.	REMARKS
1866	29 & 30 Vict., c 47	The Indian Prize Money Act, 1866	Ss 1, 2 rep pt (U K) 56 & 57 Vict., c 14 (S L R)	See p 375
"	29 & 30 Vict., c 109	The Naval Discipline Act	Ss 71 and 77 rep 47 & 48 Vict., c 39, s 8 Ss 23, 47, 48, 52, 53 am 9 Edw 7, c 41 S 53 (4) am 54 & 55 Vict., c 69, s 1 Ss 56, 58 am 9 Edw 7, c 41 Ss 56, 58 rep pt and am 47 & 48 Vict., c 39 Ss 62, 63, 66, 70 am 9 Edw 7 c 41 Ss 70 am and 71 rep 47 & 48 Vict., c 39 Ss 72, 73, 74 am 9 Edw 7, c 41 Ss 73, 74 am 47 & 48 Vict., c 39 Ss 75, 76 am 9 Edw 7, c 41 S 77 rep 47 & 48 Vict., c 39 Ss 78, 79, 80, am 9 Edw 7, c 41 S 80 rep pt 47 & 48 Vict., c 64, s 17 S 81 rep pt. 47 & 48 Vict., c 39 Ss 81, 82, 83 am 9 Edw 7, c 41 S 84 rep pt 47 & 48 Vict., c 39 S 85 in pt and Sch rep (U K) 56 & 57 Vict., c 14 (S L R) S 99 rep 38 & 39 Vict., c 66 (S L R)	See p 377
"	29 & 30 Vict c 115	The Straits Settlements Act, 1866	S 1 and in pt s 4 rep (U K) 56 & 57 Vict., c 14 (S L R)	See p 407 Omitted as being inapplicable to India

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject.	How repealed or otherwise affected	REMARKS.
1868	31 & 32 Vict., c. 26	The Indian Rail- way Companies Act, 1868	.	See p 408
"	31 & 32 Vict., c. 37	The Documentary Evidence Act, 1868	Applied, 58 & 59 Vict., c 9, ext 8 Edw 7, c 48, s 36 S 4 rep pt (U K) 56 & 57 Vict., c 14 (S L R)	See p 411
"	31 & 32 Vict., c. 38	The Indian Prize Money Act, 1868	S 2 rep pt. (U K) 38 & 39 Vict., c 66 (S L R)	See p 414
"	31 & 32 Vict., c. 61	The Consular Marriage Act, 1868	Rep 55 & 56 Vict., c 23, s 26	
"	31 & 32 Vict., c. 91	Sir Robert Na- pier's Annuity		See p 416
1869	32 & 33 Vict., c. 7	The East India Irrigation and Canal Act, 1869		See p 416.
"	32 & 33 Vict., c 88	Bishopric of Straits Settle- ments	Rep (U K) 56 & 57 Vict., c 54 (S L R) Ss 1, 2 rep pt (U K) 56 & 57 Vict., c 54 (S L R)	See p 420 •
"	32 & 33 Vict., c. 97	The Government of India Act, 1869	S 2 am 7 Edw 7, c 35, s 4 S 5 and in pt. s 8 rep (U K.) 46 & 47 Vict., c 39 (S L R) Ss 6, 8 rep pt. (U K.) 56 & 57 Vict., c 54 (S L R.)	See p 421 Omitted as being spent, obsolete or unnecessary
"	32 & 33 Vict., c 98	The Indian Councils Act, 1869	S 1 rep pt. (U K) 56 & 57 Vict., c 5 (S L R) S 2 rep 46 & 47 Vict., c 39 (S L R) S 3 rep pt. (U K) 56 & 57 Vict., c 54 (S L R)	See p 422

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1869	32 & 33 Vict, c 106	The East India Loan Act, 1869	S 1 rep (U K) 56 & 57 Vict, c 54 (S L R) S 14 rep 37 & 38 Vict, c 3, s 15	See p 422 ^c Omitted as being inapplicable to India.
1870	33 & 34 Vict, c 3	The Government of India Act, 1870	S 3 See 55 & 56 Vict, c 14, s 1 (1) S 4 rep 46 & 47 Vict, c 39 (S L R)	See p 423
"	33 & 34 Vict, c 10	The Coinage Act, 1870	Am 54 & 55 Vict, c 72 S 2 rep pt (U K) 56 & 57 Vict, c 54 (S L R) S 14 rep pt. (U K) 61 & 62 Vict, c 22 (S L R) S 17 rep pt 41 & 42 Vict, c 49, s 86 S 20 and Sch II rep pt. (U K) 56 & 57 Vict, c 54 (S L R)	See p 425
"	33 & 34 Vict, c 14.	The Naturalization Act, 1870	Am 33 & 34 Vict, c 102, 35 & 36 Vict., c 39 S 5 rep pt. (U K.) 56 & 57 Vict, c 54 (S L R) S 11 rep pt. 55 & 56 Vict, c 23, s 26 S 18 and schedule rep 46 & 47 Vict, c 39 (S L R)	See p 435 Omitted as being spent.
"	33 & 34 Vict., c. 52	The Extradition Act, 1870	Am 36 & 37 Vict, c 60, 58 & 59 Vict., c 33 S 26 rep pt (U K.) 56 & 57 Vict c 54 (S L R) S 27 rep pt. 46 & 47 Vict, c 39 (S L R) Sch. 1 ext 36 & 37 Vict., c 88, s. 27, 6 Edw 7, c 15 Sch 3 rep pt (U K) 56 & 57 Vict, c 54 (S L R)	See p 443

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1870	33 & 34 Vict., c 59	The East India Contracts Act, 1870	S 1 rep 46 & 47 Vict., c 39 (S L R)	See p 456
"	33 & 34 Vict., c 90	The Foreign Enlistment Act, 1870	Ss 3, 23, 26, 30 rep pt (U K) 56 & 57 Vict., c 54 (S L R) S 31 rep 46 & 47 Vict., c 39 (S L R)	See p 456.
"	33 & 34 Vict., c 102	The Naturalization Oath Act, 1870		See p 468
1871	34 & 35 Vict., c 29	The India Stock Dividends Act, 1871	Ext 43 Vict., c 10, s 16 S 1 rep in pt (U K) 46 & 47 Vict., c 39 (S L R)	See p 469
"	34 & 35 Vict., c 34	The Indian Councils Act, 1871		See p 469
"	34 & 35 Vict., c 62	The Indian Bishops Act, 1871		See p 470
"	34 & 35 Vict., c 91	Judicial Committee of Privy Council.	S 1 rep in pt 46 & 47 Vict., c 39 (S L R) Rep (U K.) 56 & 57 Vict., c 54 (S L R)	Omitted as being inapplicable to India
1872	35 & 36 Vict., c 39	The Naturalization Act, 1872		See p 471
"	35 & 36 Vict., c 56	Lady Mayo's Annuity		See p 473 The title only is reproduced
1873	36 & 37 Vict., c 17	The East India Stock Dividend Redemption Act, 1873	Ss 3—9 rep (U K.) 46 & 47 Vict., c 39 S 10 rep in pt (U K.) 46 & 47 Vict., c 39	See p 473 Omitted as being spent Part omitted as being obsolete and inapplicable to India
			Ss 11—15, 19—23, 26, 35, 36 rep (U K.) 46 & 47 Vict., c 39 (S L R)	Omitted as being spent.

Chronological Table.

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1873	36 & 37 Vict , c 32	The East India Loan Act, 1873	S 1 rep in pt (U K) 46 & 47 Vict , c 39 (S L R) S 14 rep 37 & 38 Vict , c 3, s 15	See p 477 Omitted as being spent
„	36 & 37 Vict , c 43	The Indian Rail- way Companies Act, 1873	•	See p 480
„	36 & 37 Vict , c 59	The Slave Trade (East African Courts Act, 1873)	Am , s 2 rep in pt 42 & 43 Vict , c 38, s 2 Ss 4, 5 rep 53 & 54 Vict , c 27, s 18 S 8 and schedule rep (U K) 46 & 47 Vict , c 39 (S L R)	See p 483 Omitted as being spent
„	36 & 37 Vict , c 60	The Extradition Act, 1873	Am 58 & 59 Vict , c '33 Ext Act XV of 1903	See p 485
„	36 & 37 Vict , c 88	The Slave Trade Act, 1873	Ss 20, 23 rep pt 53 & 54 Vict , c 27, s 18 S 30 and second sche- dule rep (U K.) 46 & 47 Vict , c 39 (S L R)	See p 486 Omitted as being spent
1874	37 & 38 Vict , c 3	The East India Loan Act, 1874	S 14 rep (U K) 46 & 47 Vict , c 39 (S L R) S 15 rep in pt (U K.) 46 & 47 Vict , c 39 (S L R) S 18 rep (U K) 46 & 47 Vict , c 39 (S L R)	See p 496 Omitted as being obsolete Omitted as being spent
„	37 & 38 Vict , c 12	The East India Annuity Funds Act, 1874	S 1 rep (U K.) 56 & 57 Vict , c 14 (S L R) No 2	See p 499 Omitted as being obsolete
„	37 & 38 Vict , c 27	The Courts (Colo- nial) Jurisdiction Act, 1874		See p 501

Chronological Table.

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1874	37 & 38 Vict , c 61	The Royal (late Indian) Ordinance Corps Act, 1874	S 3—5 rep (U K) 46 & 47 Vict , c 39 (S L R)	See p 501 Omitted as being obsolete
„	37 & 38 Vict , c 77	The Colonial Clergy Act, 1874	Ss 2 & 10 and schedules rep (U K) 46 & 47 Vict , c 39 (S L R)	See p 502 Omitted as being spent
„	37 & 38 Vict , c 91	The Indian Councils Act, 1874	Ss 1, 2 rep pt 4 Edw 7, c 7	See p 505
1875	38 & 39 Vict , c 12	The International Copyright Act, 1875		See p 506
1876	39 & 40 Vict , c 10	The Royal Titles Act, 1876		See p 507.
„	39 & 40 Vict , c 20, s 2	The Statute Law Revision (Substituted Enactments) Act, 1876	S 2 rep pt (U K) 46 & 47 Vict , c 39 (S L R)	See p 57
„	39 & 40 Vict , c 36, ss 149, 151 to 153, 2 161. 217	The Customs Consolidation Act, 1876		See p 73

Chronological Table

STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1878	41 & 42 Vict, c 73	The Territorial Waters Jurisdiction Act, 1878		See p 528
1879	42 & 43 Vict, c 8	The Registration of Births, Deaths and Marriages (Army) Act, 1879	S 5 rep (U K) 57 & 58 Vict, c 56 (S L R)	See p 530 Omitted as being spent
„	42 & 43 Vict, c 38	The Slave Trade (East African Courts) Act, 1879	S 2 rep in pt (U K) 57 & 58 Vict, c 56 (S L R)	See p 532
„	42 & 43 Vict, c 41	The Indian Guaranteed Railways Act, 1879		See p 533
„	42 & 43 Vict, c 43	The East Indian Railway (Redemption of Annuities) Act, 1879	S 1 and in parts 4 rep U K. 57 & 58 Vict, c 56 (S L R)	See p 535 Omitted as being spent
„	42 & 43 Vict, c 60	The East India Loan Act, 1879	Ss 3, 6, rep pt (U K.) 61 & 62 Vict, c 22 (S L R) Ss 9, 16 rep (U K) 57 & 58 Vict, c 56 (S L R) S 18 in part and s 19 rep (U K) 61 & 62 Vict, c 22 (S L R)	See p 537 Omitted as being spent Omitted as being spent
1880	43 Vict, c 3	The Indian Salaries and Allowances Act, 1880	S 5 rep (U K) 57 & 58 Vict, c 56 (S L R) The first schedule rep pt 56 & 57 Vict, c 62, s 2 The second schedule rep (U K) 57 & 58 Vict, c 56 (S L R)	See p 540
„	43 Vict, c 10	The East India Loan (East Indian Railway Debentures) Act, 1880	S 3 rep pt 61 & 62 Vict, c 22 (S L R)	See p 541

Chronological Table

STATUTES RELATING TO INDIA—*contd.*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1880	43 Vict, c 11	The Indian Stock (Powers of Attorney) Act, 1880	S 3 rep pt 61 & 62 Vict, c 22 (S L R)	See p 544
1881	44 & 45 Vict, c 3	The Judicial Committee Act, 1881		See p 545
„	44 & 45 Vict, c 7	The India Office (Sale of Superfluous Land) Act, 1881		See p 546
„	44 & 45 Vict, c 53	The East India Railway (Redemption of Annuities) Act, 1881	S 2 am 48 & 49 Vict, c 25, s 25 (2)	See p 548
„	44 & 45 Vict,	The Regulation of		See p 549

Chronological Table

STATUTES RELATING TO INDIA—*contd.*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1881	44 & 45 Vict, c 58— <i>contd</i>		Ss 191 to 193 and Sch V rep (U K) 56 & 57 Vict, c 54 (S L R)	
"	44 & 45 Vict, c 63	The India Office Auditor Act, 1881		See p 664
"	44 & 45 Vict, c 69	The Fugitive Offenders Act, 1881	Ss 40, 41 and schedule rep (U K) 57 & 58 Vict, c 56 (S L R) As to application to British India see Act XV of 1903, s 19	See p 664 Omitted as being spent
1882	45 & 46 Vict, c 9	The Documentary Evidence Act, 1882	Am 58 & 59 Vict, c 9	See p 676
"	45 & 46 Vict, c 45	The Bombay Civil Fund Act, 1882	Ss 1, 2 in pt and 6 rep (U K.) 61 & 62 Vict, c 22 (S L R)	See p 677.
"	45 & 46 Vict, c 48	The Reserve Forces Act, 1882	S 2 rep (U K.) 61 & 62 Vict, c 22 (S L R) S 3 rep pt and s 10 am 63 & 64 Vict, c 40 Ss 12, 13 am 61 & 62 Vict, c 9, s 1 S 14 (2) rep pt, 6 Edw 7, c 11 S 20 ext 62 & 63 Vict, c 40, and 6 Edw 7, c 11 S 29 in part and sch rep (U K.) 61 & 62 Vict, c 22 (S L R) Appld 7 Edw 7, c 9, Pt III	See p 679
1883	46 & 47 Vict, c 52, ^{RS} 118 and 119	The Bankruptcy Act, 1883		See p 691

*Chronological Table*STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected.	REMARKS
1884	47 & 48 Vict, c 31	The Colonial Prisoners Removal Act, 1884		See p 692
„	47 & 48 Vict, c 38	The Indian Marine Service Act, 1884.		See p 698
„	47 & 48 Vict, c 39	The Naval Discipline Act, 1884	Ss 8 (1) to (3), 9 and sch rep (U K) 61 & 62 Vict, c 22 (S L R)	See p 699
„	47 & 48 Vict, c 64, s 10 (4)	The Criminal Lunatics Act, 1884.		See p 703
1885	48 & 49 Vict, c 25	The East India Unclaimed Stock Act, 1885		See p 703
„	48 & 49 Vict, c 28	The East India Loan Act, 1885	Ss 3, 14 rep pt (U K.) 61 & 62 Vict, c 22 (S L R)	See p 713
„	48 & 49 Vict, c 49	The Submarine Telegraph Act, 1885	S 4 rep 50 Vict, c 3, s 3 S 13 rep pt (U K) 61 & 62 Vict, c 22 (S L R),	See p 716
„	48 & 49 Vict, c 67	The Indian Army Pension Deficiency Act, 1885	Ss 4, 5 am 59 & 60 Vict, c 28, s 37	See p 724
„	48 & 49 Vict, c 74	The Evidence by Commission Act, 1885		See p 725
1886	49 & 50 Vict, c 33	The International Copyright Act, 1886	Ss 1, 12 rep pt (U K.) and sch III rep (U K.) 61 & 62 Vict, c 22 (S L R)	See p 727
„	49 & 50 Vict, c 48	The Medical Act, 1886	S 7 am 63 & 64 Vict, c 19, s 10	See p 734

¹ This Act is repealed by the Copyright Act, 1911 (1 and 2 Geo 5, c 46) which will come into operation in British India when it is proclaimed see 1 & 2 Geo 5, c. 46 ss 25, 37 (2) (d), 36 and the Second Schedule

*Chronological Table*STATUTES RELATING TO INDIA—*contd*

Year	Regnal No and Chapter	Short title or subject	How repealed or otherwise affected	REMARKS
1886	49 & 50 Vict, c 48— <i>contd</i>		Ss 7 (2) in part, 8 (8), 20 in pt 28 and sch rep (U K) 61 & 62 Vict, c 22 (S L R) Supp 5 Edw 7, c 14	
1887	50 & 51 Vict, c 11	The Conversion of India Stock Act, 1887	Preamble and s 8 rep ss 6, 9 rep pt (U K.) 8 Edw 7, c 49 (S L R)	See p 746
"	50 & 51 Vict, c 54	The British Settle- ment Act, 1887	S 7 rep pt and sch rep (U K) 8 Edw 7, c 49 (S L R)	See p 748
"	50 & 51 Vict, c 67	The Superannua- tion Act, 1887	S 7 (1) rep 52 & 53 Vict, c 41, s 94 Ss 12, 13 rep pt s 14 and sch rep (U K) 8 Edw 7, c 49 (S L R)	See p 749
"	50 & 51 Vict, c 70	The Appellate Ju- risdiction Act, 1887	Preamble and in part s 1 rep (U K.) 8 Edw 7, c 49 (S L R)	See p 753

A COLLECTION OF STATUTES RELATING TO INDIA.

25 EDWARD I (*Magna Carta*) A D 1297

CHAPTER I

First, we have granted to God, and by this our present charter have confirmed, for us and our heirs for ever, that the church of England shall be free, and shall have all her whole rights and liberties inviolable. We have granted also, and given to all the freemen of our realm, for us and our heirs for ever, these liberties under-written, to have and to hold to them and their heirs, of us and our heirs for ever

Confirmation
of liberties

* * * * *

CHAPTER XXIX

No freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any otherwise destroyed, nor will we not pass upon him, nor (condemn him¹) but by lawful judgment of his peers, or by the law of the land. We will sell to no man, we will not deny or defer to any either justice or right²

Imprison-
ment, etc,
contrary to
law Ad-
ministration
of Justice

5 EDWARD III A D 1331

CHAPTER IX

Item, it is enacted, that no man from henceforth shall be attached by any accusation, nor forejudged of life or limb, nor his lands, tenements, goods, nor chattels, seised into the King's hands, against the form of the Great Charter, and the law of the land

No unlawful
attachment,
etc

¹ Deal with him

² It was confirmed by another Stat of 25 Edw I, called *Confirmatio cartarum*, which contains the following clause —“ And we will, that if any judgment be given from henceforth contrary to the points of the charters aforesaid by the justices, or by any other our ministers, that hold plea before them against the points of the charters, it shall be undone and holden for nought ”

28 EDWARD III A D 1354

CHAPTER III

None shall be
condemned
without due
process of
law

Item, that no man of what estate or condition that he be, shall be put out of land, or tenement, nor taken, nor imprisoned, nor disinherited, nor put to death, without being brought in answer by due process of the law

32 HENRY VIII A D 1540

* * * * *

CHAPTER XXXIV

Graunties of Reversions

Covenants
in leases, etc.,
not available
by common
law except to
parties or
privies
thereto,

WHERE bfore this tyme divers, aswell temporall as ecclesiasticall and religiouse personnes, have made sundry leases demyses and grauntis to divers other persones of sundry manours lordshippes fermes meases landis tenementis medowes pastures or other hereditamentis for terme of life or lifes or for terme of yeres, by writing undre their seale or sealis conteyning certain conditions covenantis and agreementis to be perfourmed as well on the parte and bihalfe of the said leases and grauntis their executours and assigneis, as on the behalf of the said lessours and grantours their heirs and successours, and forasmuche as by the common lawe of this realme no straunger to any convenaunt action or condition shall take any advauntage or benefite of the same by any meanes or wayes in the lawe, but onely suche as be parties or privies therunto, by the reason wherof as well all grauntis of reversions as also all grauntees and patentis of the King our souveraine lorde of sundrie manours lordeshippes graunges fermes meases landis tenementis medowes pastures or other hereditamentis, late bilonging to monasteries and other religiouse and ecclesiasticall houses dissolved suppressid renouncid relinquished forfeited geven up or by other meanes comme to thandis and possession of the Kings Majesty syns the fourth day of February the xxvith yere of his mooste noble reigne, be excluded to have any entree or action against the said lessees and grauntees their executours or assigneis whiche the lessours bfore that tyme mought by the lawe have had against the same lessees for the breache of any condition convenaunt or agreement comprisid in the indentures of their said lessees dimises and grauntes Be it therefore enacted by the Kinge our souveraine lorde the lordes spirituall and temporall and the commons in this present Parliament assembled and by auctoritie of the same, that aswell all and every personne & persones and bodies politike their heirs successours and assigneis, whiche have or shalhave any gifte or graunte of our said souveraine lorde by his lettres patentis of anny lordeshippes mannours landis tenementis rentis personnages tithes portions or any other hereditaments,

grantees of
the lands of
religious
houses dis-
solved,
and all

or of anny reversion or reversions of the same, whiche did bilonge and appertayne to any of the said monasteries and other religouse and ecclesiasticall houses dissolved suppressid relinquished forfaicted or by any other meanes comme to the Kinges handes syns the said 111th day of February the xxvj yere of his moost noble reigne, or whiche at any tyme heretofore did bilonge or appertayne to any other persone or personnes and afre came to thandis of our said souveraine lorde, as also all other personnes being grauntees or assigneis to or by our said souveraine lorde the King, or to or by any other personne or personnes than the Kings Highnes, and thenee executors successors and assignes of everie of them, shall and may have and enjoye like advauntage against the lessees their executours administratours and assigneis, by entree for none payment of the rent or for doing of wast or other forfaicture, and also shall and may have and enjoye all and every suche like and the same advauntage benefite and remedies by action onely for not perfourmyng of other conditions covenantis or agreementis conteynid and expressid in the endentures of their said leases dymyses or grauntes, against all and every the said lessees and fermours and graunties their executours administratours and assignis, as the said lessours or grantours them selfis or their heires or successours ought shuld or might have had and enjoyed at any tyme or tymes, in like maner and fourme as if the reversion of suche landis tenementis or hereditamentis had not comme to thandis of our said souveraine lorde or as our said souveraine lorde his heires and successours shuld or might have had and enjoyed in certaine cases by vertue of Thacte made at the first cession of this present Parliament if no suche grante by letres patentes had ben made by his Highnes

grantees of reversions in lands, etc, shall have advantage of all covenants against the lessees of such lands

31 H VIII,
c 13

2 Moreover be it enacted by auctoritie aforesaid that all fermours lessees and grantees of lordeshippes manours landis tenementis rentis personnages tithes portions or anny other hereditamentis for terme of veres life or lyfes their executours administratours and assigneis, shall and may have like action avauntage and remedy againste all and everie persone and personnes and bodies politike their heires successours and assigneis whiche have or shalhave any gifte or graunte of our souveraine lorde the Kinge or of anny other personne or personnes of the reversion of the same manours landis tenementis and other hereditamentis so letten or any percell therof, for any condition covenaut or agreement conteynid or expressid in the indenturis of their lease and leasses as the same leases or anny of them might and shulde have had against their said leassours and grauntours their heires or successours; all benefites and advauntages of recoveres by reason of anny warauntie in deede or in lawe by voucher or otherwise onely excepted

Lessees may have action of covenant, etc, against such grantees

3 Provided allwaies that this Acte nor anny thinge or thinges therein conteynid shall extend to hindre or charge any persone or personnes for the breche of any covenaut or condition comprised in any suche writing as is aforesaid, but for suche covenautis and conditions as shall

Commencement of the provisions of this Act.

chase or forest, or to any of them, any thing in this act heretofore mentioned to the contrary thereof in any wise notwithstanding

Acts done by
an officer
removeable
shall be
good

5 Provided also, That if any person or persons do hereafter offend in any thing contrary to the tenor and effect of this act, yet that notwithstanding all judgments given, and all other act or acts executed or done by any such person or persons so offending by authority or colour of the office or deputation which ought to be forfeited, or not occupied or not enjoyed by the person so offending as is aforesaid, after the said offence so by such person committed or done, and before such person so offending for the same offence be removed from the exercise, administration and occupation of the said office or deputation, shall be and remain good and sufficient in law to all intents, constructions and purposes, in such like manner and form as the same should or ought to have remained and been if this act had never been had or made

29 CHARLES II A D 1677

CHAPTER III

An Act for prevention of frauds and Perjuries

Rot Parl.
29, o 2, p 2,
nu 2

* * * * *

Declarations
or creations
of trusts of
lands to be
in writing
signed

7. And bee it further enacted by the authoritie aforesaid that from and after the said fower and twentyeth day of June all declarations or creations of trusts or confidences of any lands tenements or hereditaments shall be manifested and proved by some writing signed by the partie who is by law enabled to declare such trust or by his last will in writing or else they shall be utterly void and of none effect

Proviso for
trusts arising,
transferred
or extin-
guished by
implication
of law

8. Provided alwayes that where any conveyance shall be made of any lands or tenements by which a trust or confidence shall or may arise or result by the implication or construction of law or bee transferred or extinguished by an act or operation of law then and in every such case such trust or confidence shall be of the like force and effect as the same would have beene if this statute had not beene made Any thing hereinbefore contained to the contrary notwithstanding

Assignments
of trusts
shall be in
writing

9 And bee it further enacted that all grants and assignments of any trust or confidence shall likewise be in writing signed by the partie granting or assigning the same (or) by such last will or devise or else shall likewise be utterly void and of none effect

Lands, etc.,
of cestui que
trust liable
to the judg-
ment, etc

10 And bee it further enacted by the authoritie aforesaid that from and after the said fower and twentyeth day of June it shall and may be lawfull for every sheriffe or other officer to whome any writt or precept

is or shall be directed at the suite of any person or persons of for and upon any judgment statute or recognizance hereafter to be made or had, to doe make and deliver execution unto the partie in that behalfe sueing of all such lands tenements rectories tythes rents and hereditaments as any other person or persons be in any manner of wise seised or possessed (or hereafter shall be seised or possessed) in trust for him against whome execution is soe sued like as the sheriffe or other officer might or ought to have done if the said partie against whome execution hereafter shall be soe sued had beene seised of such lands tenements rectories tythes rents or other hereditaments of such estate as they be seized of in trust for him at the time of the said execution sued Which lands tenements and held free from the incumbrances of the persons seized in trust such execution shall accordingly be held and enjoyed freed and discharged from all incumbrances of such person or persons as shall be soe seised or possessed in trust for the person against whome such execution shall be sued And if any cestuy que trust hereafter shall dye Trust shall be leaving a trust in fee simple to descend to his heire, there, and in every assets by descent such case such trust shall be deemed and taken and is hereby declared to be assetts by descent and the heire shall be lyable to and chargeable with the obligation of his auncestors for and by reason of such assetts as fully and amply as he might or ought to have beene if the estate in law had descended to him in possession in like manner as the trust descended, any law custome or usage to the contrary in any wise notwithstanding

II. Provided alwayes that noe heire that shall become chargeable But heir shall by reason of any estate or trust made assetts in his hands by this law not by reason thereof shall by reason of any kinde of plea or confession of the action or suffering judgment by nient dedire or any other matter bee chargeable to pay become chargeable of the condemnation out of his owne estate but execution shall be sued of his own estate the whole estate soe made assetts in his hands by descent in whose hands soever it shall come after the writt purchased in the same manner as it is to be at and by the common law where the heire at law pleading a true plea judgment is prayed against him thereupon Any thing in this present Act contained to the contrary notwithstanding

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31 CHARLES II A D 1679

CHAPTER II

An Act for the better secureing the Liberty of the Subject and for Prevention of Imprisonments beyond the Seas Rot Parl 31, c 2, nu 2

WHEREAS great delayes have beene used by sheriffes goalers and other officers to whose custody any of the Kings subjects have beene Recital that delays had been used by

sheriffs in making returns of writs of habeas corpus, etc

Sheriff, etc, within three days after service of habeas corpus, with the exception of treason and felony, as and under the regulations herein mentioned, to bring up the body before the Court to which the writ is returnable,

and certify the true causes of imprisonment.

Exceptions in respect of distance

How writs to be marked

committed for criminall or supposed criminall matters in making returnes of writts of habeas corpus to them directed by standing out an alias and pluries habeas corpus and sometimes more and by other shifts to avoid their yielding obedience to such writts contrary to their duty and the knowne lawes of the land whereby many of the Kings subjects have beene and hereafter may be long detained in prison in such cases where by law they are baylable to their great charge and vexation For the prevention whereof and the more speedy releife of all persons imprisoned for any such criminall or supposed criminall matters bee it enacted by the Kings most excellent Majestie by and with the advice and consent of the lords spirituall and temporall and commons in this present Pailament assembled and by the authoritie thereof that whensoever any person or persons shall bring any habeas corpus directed unto any sheriffe or sheriffes goaler minister or other person whatsoever for any person in his or their custody and the said writt shall be served upon the said officer or left at the goale or prison with any of the under-officers under-keepers or deputy of the said officers or keepers that the said officer or officers his or their under-officers under-keepers or deputies shall within three dayes after the service thereof as aforesaid (unlesse the committment aforesaid were for treason or fellony plainly and specially expressed in the warrant of committment) [upon payment or tender of the charges of bringing the said prissoner to be ascertained by the judge or court that awarded the same and endorsed upon the said writt not exceeding twelve pence per mile and upon security given by his owne bond to pay the charges of carrying backe the prisoner if he shall bee remanded by the court or judge to which he shall be brought according to the true intent of this present Act and that he will not make any escape by the way] make returne of such writt [or] bring or cause to be brought the body of the partie soe committed or restrained unto or before the lord chauncellor or lord-keeper of the great seale of England for the time being or the judges or barons of the said court from whence the said writt shall issue or unto and before such other person [and] persons before whome the said writt is made returnable according to the command thereof, and shall [likewise then] certifie the true causes of his detainer or imprisonment unlesse the committment of the said partie be in any place beyond the distance of twenty miles from the place or places where such court or person is or shall be residing and if beyond the distance of twenty miles and not above one hundred miles then within the space of ten dayes and if beyond the distance of one hundred miles then within the space of twenty dayes after such delivery aforesaid and not longer

2 [And to the intent that noe sheriffe goaler or other officer may pretend ignorance of the import of any such writt bee it enacted by the authoritie aforesaid that all such writts shall be marked in this manner Per statutum tricesimo primo Caroli Secundi Regis and shall be signed

by the person that awards the same] And if any person or persons shall be or stand committed or detained as aforesaid for any crime unlesse for treason or felony plainly expressed in the warrant of committment in the vacation time and out of terme it shall and may be lawfull to and for the person or persons soe committed or detained other then persons convict or in execution by legall processe or any one in his or their behalfe to appeale or complaine to the lord chauncellour or lord keeper or any one of his Majestyes justices either of the one bench or of the other or the barons of the Exchequer of the degree of the coife and the said lord chauncellor lord keeper justices or barons or any of them upon view of the copy or copyes of the warrant or warrants of committment and detainer or otherwise upon oath made that such copy or copyes were denied to be given by such person or persons in whose custody the prisoner or prisoners is or are detained are hereby authorized and required upon request made in writeing by such person or persons or any on his her or their behalfe attested and subscribed by two witnesses that were present at the delivery of the same to award and grant an habeas corpus under the seale of such court whereof he shall then be one of the judges to be directed to the officer or officers in whose custodie the party soe committed or detained shall be returnable immediate before the said lord chauncellor or lord-keeper or such justice baron or any other justice or baron of the degree of the coife of any of the said courts and upon service thereof as aforesaid the officer or officers his or their under-officer or under-officers under-keeper or under-keepers or their deputy in whose custodie the partie is soe committed or detained shall within the times respectively before limited bring such prisoner or prisoners before the said lord chauncellor or lord-keeper or such justices barons or one of them before whome the said writt is made returnable and in case of his absence before any other of them with the returne of such writt and the true causes of the committment and detainer and thereupon within two dayes after the partie shall be brought before them the said lord chauncellor or lord-keeper or such justice or baron before whome the prisoner shall be brought as aforesaid shall discharge the said prisoner from his imprisonment takeing his or their recognizance with one or more suretie or sureties in any summe according to their discretions haveing regard to the quality of the prisoner and nature of the offence for his or their appearance in the Court of Kings Bench the terme following or at the next assizes sessions or generall goale-delivery of and for such county city or place where the committment was or where the offence was committed or in such other court where the said offence is properly cognizable as the case shall require and then shall certifie the said writt with the returne thereof and the said recognizance or recognizances into the said court where such appearance is to be made unlesse it shall appeare unto the said lord chauncellor or lord keeper or justice or justices or baron or barons that the partly soe committed is detained upon a legall processe

Persons committed, except for treason and felony, etc, may appeal to the lord chancellor, etc

Proceedings thereon.

Habeas corpus may be awarded,

and upon service thereof of the officer to bring up the prisoners as before mentioned,

and thereupon within two days lord chancelor, etc, may discharge upon recognisance,

and certify the writt with the return and recognisance.

Proviso for

process not
bailable

order or warrant out of some court that hath jurisdiction of criminal matters or by some warrant signed and sealed with the hand and seale of any of the said justices or barons or some justice or justices of the peace for such matters or offences for the which by the law the prisoner is not baileable

Habeas corpus not
granted in
vacation to
prisoners who
have neglected
to pray
the same

3. Provided alwayes and bee it enacted that if any person shall have wilfully neglected by the space of two whole termes after his imprisonment to pray a habeas corpus for his enlargement such person soe wilfully neglecting shall not have any habeas corpus to be granted in vacation time in pursuance of this Act

Officer neglecting, etc.,
to make the
said returns,
etc.,

4. And bee it further enacted by the authoritie aforesaid that if any officer or officers his or their under-officer or under-officers under-keeper or under-keepers or deputy shall neglect or refuse to make the returnes aforesaid or to bring the body or bodies of the prisoner or prisoners according to the command of the said writt within the respective times aforesaid or upon demand made by the prisoner or person in his behalfe shall refuse to deliver or within the space of six houres after demand shall not deliver to the person soe demanding a true copy of the warrant or warrants of committment and detayner of such prisoner, which he and they are hereby required to deliver accordingly all and every the head goalers and keepers of such prisons and such other person in whose custodie the prisoner shall be detained shall for the first offence forfeite to the prisoner or partie grieved the summe of one hundred pounds and for the second offence the summe of two hundred pounds and shall and is hereby made incapable to hold or execute his said office, the said penalties to be recovered by the prisoner or partie grieved his executors or administrators against such offender his executors or administrators by any action of debt suite bill plaint or information in any of the Kings courts at Westminster wherein noe essoigne protection priviledge injunction wager of law or stay of prosecution by non vult ulterius prosequi or otherwise shall bee admitted or allowed or any more then one imparlance, and any recovery or judgement at the suite of any partie grieved shall be a sufficient conviction for the first offence and any after recovery or judgement at the suite of a partie grieved for any offence after the first judgement shall bee a sufficient conviction to bring the officers or person with the said penaltie for the second offence

first offence,
penalty £100,
second offence,
£200
and incapacity

Judgment at
suite of party
sufficient
conviction

Prisoner as to
imprisonment
of party after
he is taken
at large
of prisoners

5 And for the prevention of unjust vexation by reiterated committments for the same offence bee it enacted by the authoritie aforesaid that noe person or persons which shall be delivered or sett at large upon any habeas corpus shall at any time hereafter bee againe imprisoned or committed for the same offence by any person or persons whatsoever other then by the legall order and processe of such court wherein he or they shall be bound by recognizance to appeare or other court having jurisdiction of the cause and if any other person or persons shall know-

inglly contrary to this Act recommit or imprison or knowingly procure or cause to be recommit or imprisoned for the same offence or pretended offence any person or persons delivered or sett at large as aforesaid or bee knowingly aiding or assisting therein then he or they shall foifeite to the prisoner or party grieved the summe of five hundred pounds any colourable pretence or variation in the warrant or warrants of commitment notwithstanding to be recovered as aforesaid

Unduly re-committing such discharged persons or assisting therein, penalty to the party £500

6 Provided alwayes and bee it further enacted that if any person or persons shall be committed for high treason or felony plainly and specially expressed in the warrant of commitment upon his prayer or petition in open court the first weeke of the terme or first day of the sessions of oyer and terminer or general goale delivery to be brought to his tryall shall not bee indicated sometime in the next terme sessions of oyer and terminer or generall goale delivery after such commitment it shall and may bee lawfull to and for the judges of the Court of Kings Bench and justices of oyer and terminer or generall goale delivery and they are hereby required upon motion to them made in open court the last day of the terme sessions or goale-delivery either by the prisoner or any one in his behalfe to sett at liberty the prisoner upon baile unlesse it appeare to the judges and justices upon oath made that the witnesses for the King could not be produced the same terme sessions or generall goale-delivery And if any person or persons committed as aforesaid upon his prayer or petition in open court the first weeke of the terme or first day of the sessions of oyer and terminer or generall goale-delivery to be brought to his tryall shall not be indicted and tryed the second terme sessions of oyer and terminer or generall goale-delivery after his commitment or upon his tryall shall be acquitted he shall be discharged from his imprisonment.

If persons committed for high treason or felony plainly expressed in warrant shall not on petition be indicated as herein mentioned, judges, etc, may discharge upon bail,

proviso,

and if not indicated and tried as herein mentioned, then to be discharged

7. Provided alwayes that nothing in this Act shall extend to discharge out of prison any person charged in debt or other action or with processe in any civil cause but that after he shall be discharged of his imprisonment for such his criminall offence he shall be kept in custodie according to law for such other suite

Proviso respecting persons charged in debt, etc

8. Provided alwayes and bee it enacted by the authoritie aforesaid that if any person or persons subject of this realme shall be committed to any prison or in custodie of any officer or officers whatsoever for any criminall or supposed criminall matter that the said person shall not be removed from the said prison and custody of any other officer or officers unlesse it be by habeas corpus or some other legall writt or where the prisoner is delivered to the constable or other inferiour officer to carry such prisoner to some common goale or where any person is sent by order of any judge of assize or justice of the peace to any common workehouse or house of correction or where the prisoner is removed from one prison or place to another within the same county in order to his or her tryall or discharge in due course of law or in case of suddaine fire or

Persons committed for criminal matter not to be removed but by habeas corpus or other legal writ

Unduly making out, etc., warrant for removal, infection or other necessity and if any person or persons shall after such commitment aforesaid make out and signe or countersigne any warrant or warrants for such removeall aforesaid contrary to this Act as well he that makes or signes or countersignes such warrant or warrants as the officer or officers that obey or execute the same shall suffer and incur the paines and forfeitures in this Act before-mentioned both for the first and second offence respectively to be recovered in manner aforesaid by the partie grieved

penalty 9. Provided alsoe and bee it further enacted by the authoritie aforesaid that it shall and may be lawfull to and for any prisoner and prisoners as aforesaid to move and obtaine his or their habeas corpus as well out of the High Court of Chauncery or Court of Exchequer as out of the Courts of Kings Bench or Common Pleas or either of them and if the said lord chauncellor or lord keeper or any judge or judges baron or barons for the time being of the degree of the coife of any of the courts aforesaid in the vacation time upon view of the copy or copies of the warrant or warrants of commitment or detainer or upon oath made that such copy or copyes were denyed as aforesaid shall deny any writt of habeas corpus by this Act requied to be granted being moved for as aforesaid they shall severally forfeite to the prisoner or partie grieved the summe of five hundred pounds to be recovered in manner aforesaid

[Section 10 is omitted as inapplicable to India]

No subject to be sent prisoner into Scotland, etc., or any parts beyond the seas 11 And for preventing illegall imprisonments imprisons beyond the seas bee it further enacted by the authoritie aforesaid, that noe subject of this realme that now is or hereafter shall be an inhabitant or resiant of this kingdome of England dominion of Wales or towne of Berwicke upon Tweede shall or may be sent prisoner into Scotland Ireland Jersey Gaurnsey Tangeir or into any parts garrisons islands or places beyond the seas which are or at any time hereafter shall be within or without the dominions of his Majestie his heires or successors and that every such imprisonment is hereby enacted and adjudged to be illegall and that if any of the said subjects now is or hereafter shall bee soe imprisoned every such person and persons soe imprisoned shall and may for every such imprisonment maintaine by vertue of this Act an action or actions of false imprisonment in any of his Majestye's courts of record against the person or persons by whome he or she shall be soe committed detained imprisoned sent prisoner or transported contrary to the true meaning of this Act and against all or any person or persons that shall frame contrive write seale or countersigne any warrant or writeing for such commitment detainer imprisonment or transportation or shall be adviseing aiding or assisting in the same or any of them and the plaintiffe in every such action shall have judgement to recover his tieble costs besides damages which damages soe to be given shall not be lesse than five hundred pounds in which action noe delay stay or stopp of proceeding by rule order or command nor noe injunction protection or priviledge whatsoever nor any

Persons so imprisoned may maintain action against the person committing or otherwise acting in respect thereof, as herein mentioned.

Treble costs and damages.

more then one impaillance shall be allowed excepting such rule of the court wherein the action shall depend made in open court as shall bee thought in justice necessary for speciall cause to be expressed in the said rule, and the person or persons who shall knowingly frame contrive write seale or countersigne any warrant for such committment detainer or transportation or shall soe committ detaine imprison or transport any person or persons contrary to this Act or be any wayes adviseing aiding or assisting therein being lawfully convicted thereof shall be disabled from thenceforth to beare any office of trust or proffitt within the said realme of England dominion of Wales or towne of Berwicke upon Tweede or any of the islands territories or dominions thereunto belonging and shall incurr and sustaine the paines penalties and forfeitures limited ordained and provided in the Statute of provision and premunire made in the sixteenth yeare of King Richard the Second and be incapable of any pardon from the King his heires or successors of the said forfeitures losses or disabilities or any of them

and the person so committing or acting disabled from office, and incur premunire—
16 R II C 5.

12. Provided alwayes that nothing in this Act shall extend to give lenefitt to any person who shall by contract in writeing agree with any merchant or owner of any plantation or other person whatsoever to be transported to any parts beyond seas and receive earnest upon such agreement although that afterwards such person shall renounce such contract

and be incapable of pardon

Proviso for contracts for transportation.

13 Provided alwayes and bee it enacted that if any person or persons lawfully convicted of any felony shall in open court pray to be transported beyond the seas and the court shall thinke fitt to leave him or them in prison for that purpose such person or persons may be transported into any parts beyond the seas this Act or anything therein contained to the contrary notwithstanding

And for transportation of persons convicted of felony and praying to be transported

14 [*Rep (E) 26 & 27 Vic, c 125 (S L R) Omitted as being spent*]

15. Provided alsoe that if any person or persons at any time resiant in this realme shall have committed any capitall offence in Scotland or Ireland or any of the islands or forreigne plantations of the King his heires or successors where he or she ought to be tryed for such offence such person or persons may be sent to such place there to receive such trvall in such manner as the same might have beene used before the making of this Act anything herein contained to the contrary notwithstanding

Proviso for sending persons to be tried in places where any capital offence committed

16. Provided alsoe and bee it enacted that noe person or persons shall be sued impleaded molested or troubled for any offence against this Act unlesse the partie offending be sued or impleaded for the same within two yeares at the most after such time wherein the offence shall be committed in case the partie grieved shall not be then in prison and if he shall be in prison then within the space of two yeares after the decease of the person imprisoned or his or her delivery out of prison which shall first happen

Limitation of prosecution for offences against this Act

After assizes
proclaimed,
no person to
be removed
from common
goal upon
habeas
corpus,
but brought
before judge
of assize

17. And to the intent noe person may avoid his tryall at the assizes or generall goale-delivery by procureing his removeall before the assizes at such time as he cannot be brought backe to receive his tryall there bee it enacted that after the assizes proclaimed for that country where the prisoner is detained noe person shall be removed from the common goale upon any habeas corpus granted in pursuance of this Act but upon any such habeas corpus shall be brought before the judge of assize in open court who is thereupon to doe what to justice shall appertaine

After assizes
persons de-
tained may
have habeas
corpus
Informa-
tions, etc.,
brought for
offence
against this
law, general
issue

18. Provided neverthelesse that after the assizes are ended any person or persons detained may have his or her habeas corpus according to the direction and intention of this Act

19. And bee it also enacted by the authoritie aforesaid that if any information suite or action shall be brought or exhibited against any person or persons for any offence committed or to be committed against the forme of this law it shall be lawfull for such defendants to pleade the generall issue that they are not guilty or that they owe nothing and to give such speciall matter in evidence to the jury that shall try the same which matter being pleaded had beene good and sufficient matter in law to have discharged the said defendant or defendants against the said information suite or action and the said matter shall be then as availeable to him or them to all intents and purposes as if he or they had sufficiently pleaded sett forth or alledged the same matter in barr or discharge of such information suite or action

Provided as to
removal or
bail of per-
sons charged
as accessor-
ies before
the fact to
petty treason
or felony

20. And because many times persons charged with petty treason or felony or as accessaries thereunto are committed upon suspicion onely whereupon they are baileable or not according as the circumstances making out that suspicion are more or lesse weighty which are best knowne to the justices of peace that committed the persons and have the examinations before them or to other justices of the peace in the county Bee it therefore enacted that where any person shall appeare to be committed by any judge or justice of the peace and charged as accessory before the fact to any petty treason or felony or upon suspicion thereof or with suspicion of petty treason or felony which petty treason or felony shall be plainly and specially expressed in the warrant of committment that such person shall not be removed or bailed by vertue of this Act or in any other manner then they might have beene before the making of this Act

1 WILLIAM & MARY A D 1688

CHAPTER VI

An Act for Establishing the Coronation Oath

WHEREAS by the law and ancient usage of this realme the Kings and

Queéns thereof have taken a solemne oath upon the Evangelists at their respective coronations to maintaine the statutes laws and customs of the said realme and all the people and inhabitants thereof in their spirituall and civill rights and properties But forasmuch as the oath itselſe on such occasion administered hath heretofore beene framed in doubtfull words and expressions with relation to ancient laws and constitutions at this time unknowne To the end therefore that one uniforme oath may be in all times to come taken by the Kings and Queens of this realme and to them respectively administered at the times of their and every of their coronation

Oath heretofore framed in doubtful words

2 May it please your Majesties that it may be enacted and bee it enacted by the King and Queens most excellent Majestyes by and with the advice and consent of the lords spirituall and temporall and the commons in this present Parlyament assembled and by the authoritie of the same that the oath hereinmentioned and hereafter expressed shall and may be administred to their most excellent Majestyes King William and Queen Mary (whome God long preserve) at the time of their coronation in the pſence of all persons that shall be then and there present at the solemnizeing thereof by the Archbishop of Canterbury or the Archbishop of Yorke or either of them or any other bishop of this realme whome the King's Majesty shall thereunto appoint and who shall be hereby thereunto respectively authorized which oath followeth and shall be administred in this manner that is to say,

Oath hereafter mentioned to be administered,

by the Archbishop of Canterbury, etc

The archbishop or bishop shall say,

3 Will you solemnly promise and sweare to governe the people of this Kingdome of England and the dominions thereto belonging according to the statutes in Parlyament agreed on and the laws and customs of the same?

Form of oath and administration thereof

The King and Queene shall say,

I solemnly promise soe to do

Archbishop or bishop,

Will you to your power cause law and justice in mercy to be executed in all your judgments?

King and Queene,

I will.

Archbishop or bishop

Will you to the utmost of your power maintaine the laws of God the tru profession of the Gospell and the Protestant reformed religion established by law? And will you preserve unto the bishops and clergy of this realme and to the churches committed to their charge all such

rights and priviledges as by law doe or shall appertaine unto them or any of them?

King and Queene
 All this I promise to doe

After this the King and Queene laying his and her hand upon the Holy Gospells, shall say,

King and Queene

The things which I have herebefore promised I will performe and keepe soe help me God -

Then the King and Queene shall kisse the booke

Oath to be
 administered
 to all future
 Kings and
 Queens

4 And bee it further enacted that the said oath shall be in like manner administered to every King or Queene who shall succede to the imperiall crowne of this realme at their respective coronations by one of the archbishops or bishops of this realme of England for the time being to be thereunto appointed by such King or Queene respectively and in the presence of all persons that shall be attending assisting or otherwise present at such their respective coronations any law statute or usage to the contrary notwithstanding

POSTHUMOUS CHILDREN.

10 Will. 3, c 22¹

An Act to enable Posthumous Children to take Estates as if borne in their Fathers Lifetime

WHEREAS it often happens that by marriage and other settlements estates are limited in remainder to the use of the sons and daughters the issue of such marriage with remainders over without limiting an estate to trustees to preserve the contingent remainders limited to such sons and daughters by which means such sons and daughters if they happen to be borne after the decease of their father are in danger to be defeated of their remainder by the next in remainder after them and left unprovided for by such settlements contrary to the intent of the parties that made those settlements

Be it enacted by the Kings Most Excellent Majesty by and with the advice and consent of the lords spirituall and temporall and commons in this present Parliament assembled and by the authority of the same

¹ This is Cap 16 in the common printed editions

that where any estate already is or shall hereafter by any marriage or other settlement be limited in remainder to or to the use of the first or other son or sons of the body of any person lawfully begotten with any remainder or remainders over to or to the use of any other person or persons or in remainder to or to the use of a daughter or daughters lawfully begotten with any remainder or remainders to any other person or persons that any son or sons or daughter or daughters of such person or persons lawfully begotten or to be begotten that shall be borne after the decease of his her or their father shall and may by virtue of such settlement take such estate so limited to the first and other sons or to the daughter or daughters in the same manner as if borne in the lifetime of his her or their father although there shall happen no estate to be limited to trustees after the decease of the father to preserve the contingent remainder to such after-borne son or sons daughter or daughters untill he she or they come in esse or are borne to take the same any law or usage to the contrary in any wise notwithstanding

2 [*Rep as to U K 30 & 31 Vict , c 59 (S L R) Omitted as being spent*]

CRIME IN PLANTATIONS ¹

11 Will 3, c. 12.

An Act to punish Governors of Plantations in this Kingdom for Crimes by them committed in the Plantations

Rot Parl.
11, Gul. III,
p 3, n. 3

WHEREAS a due punishment is not provided for severall crimes and offences committed out of this his Majesties realme of England whereof divers governors lieutenant-governors deputy governors or commanders-in-chiefe of plantations and colonies within his Majesties dominions beyond the seas have taken advantage and have not been deterred from oppressing his Majesties subjects within their respective governments and commands nor from committing severall other great crimes and offences not deeming themselves punishable for the same here nor accountable for such their crimes and offences to any person within their respective governments and commands

Reasons for
passing this
Act.

For remedy whereof be it enacted by the Kings most excellent Majesty by and with the advice and consent of the lords spirituall and temporall and commons in Parliament assembled and by the authority of the same that if any governor lieutenant-governor deputy governor or commander-in-chiefe of any plantation or colony within his Majesties

How and
where oppres-
sions by gov-
ernors, etc ,
of planta-
tions abroad
tried

¹ See, too, ss 4 and 5, 21 Geo 3, c 70, *post*.

dominions beyond the seas shall after the first day of August one thousand seven hundred be guilty of oppressing any of his Majesties subjects beyond the seas within their respective governments or commands or shall be guilty of any other crime or offence contrary to the laws of this realme or in force within their respective governments or commands such oppressions crimes and offences shall be enquired of heard and determined in his Majesties Court of Kings Bench here in England or before such commissioners and in such county of this realme as shall be assigned by his Majesties commission and by good and lawfull men of the same country and that such punishments shall be inflicted on such offenders as are usually inflicted for offences of like nature committed here in England

THE ACT OF SETTLEMENT

12 & 13 Will 3, c 2

An Act for the further Limitation of the Crown and better securing the Rights and Liberties of the subject

[*Preamble recites 1 W & M , c 2*]

1* * * * * * *

Princess
Sophia de-
clared next
successor to
the crown

1 That the most excellent princess *Sophia* electress and dutchess dowager of *Hanover* daughter of the most excellent princess *Elizabeth* late Queen of *Bohemia* daughter of our late sovereign lord King *James* the First of happy memory be and is hereby declared to be the next in succession in the protestant line to the imperiall crown and dignity of the said realms of *England France* and *Ireland* with the dominions and territories thereunto belonging after his Majesty and the princess *Anne* of *Denmark* and in default of issue of the said princess *Anne* and of his Majesty respectively and that from and after the deceases of his said Majesty our now sovereign lord and of her royall highness the princess *Anne* of *Denmark* and for default of issue of the said princess *Anne* and of his Majesty respectively the crown and regall government of the said kingdoms of *England France* and *Ireland* and of the dominions thereunto belonging with the royall state and dignity of the said realms and all honours stiles titles regalities prerogatives powers jurisdictions and authorities to the same belonging and appertaining shall be remain and continue to the said most excellent princess *Sophia* and the heirs of her body being protestants And thereunto the said lords spirituall and temporall and commons shall and will in the name of all the people of this realm most humbly and faithfully

after the
King and
Princess Anne
of Denmark
and their
issue, etc ,

and to the
heirs of her
body being
protestants.

¹ Recital and enacting words have been omitted.

submit themselves then heirs and posterities and do faithfully promise that after the deceases of his Majesty and her royall highness and the failure of the heirs of their respective bodies to stand to maintain and defend the said princess *Sophia* and the heirs of her body being protestants according to the limitation and succession of the crown in this Act specified and contained to the utmost of their powers with their lives and estates against all persons whatsoever that shall attempt anything to the contrary

2 Provided always and it is hereby enacted that all and every Papist, &c., person and persons who shall or may take or inherit the said crown by ^{incapacitated} ~~from inheriting~~ virtue of the limitation of this present act and is are or shall be reconciled to or shall hold communion with the see or church of *Rome* or shall profess the popish religion or shall marry a papist shall be subject

Military or to have any grant of lands tenements or hereditaments from the crown to himself or to any other or others in trust for him ¹

2* * * *

4 [All laws for securing the Established religion, etc, confirmed. Omitted as apparently extending to the United Kingdom only]

1 Anne A D 1702.

CHAPTER II

Rot Parl.,
1 Ann, p 2,
n 2.

An Act for explaining a Clause in an Act made at the Parliament begun and holden at Westminster the Two and twentieth of November in the Seventh Year of the Reign of our Sovereign Lord King William the Third intituled An Act for the better security of His Majesties Royal Person and Government

[Sections 1 to 3—Rep 30 & 31 Vict, 59 (S L R) Omitted as being spent or superseded]

The like enactment as to writs and proceedings in time to come

4. And be it further enacted that no writ plea or process or any other proceeding upon any indictment or information for any offence or misdemeanor or any writ process or proceeding for any debt or account that

¹ Rep 7 & 8 Vict, c 66, as to such parts as are inconsistent with the provisions of that Act The provisions of that Act with which this clause is inconsistent, are as follows —

Sec 3 —And be it enacted, that every person now born or hereafter to be born, out of her Majesty's dominions, of a mother being a natural born subject of the United Kingdom, shall be capable of taking to him, his heirs, executors, or administrators, any estate, real or personal, by devise or purchase or inheritance of succession

Sec 5 —And be it enacted, that every alien now residing in or who shall hereafter come to reside in any part of the United Kingdom, and being the subject of a friendly state, may by grant lease, demise, assignment, bequest, representation, or otherwise, take and hold any lands, houses, or other tenements for the purpose of residence or of occupation by him or her or his or her servants, or for the purpose of any business, trade or manufacture, for any term of years not exceeding twenty one years, as fully and effectually to all intents and purposes, and with the same rights, remedies, exemptions, and privileges, except the right to vote at elections for members of Parliament, as if he were a natural-born subject of the United Kingdom

Sec 6 —And be it enacted that upon obtaining the certificate and taking the oath hereinafter prescribed, every alien now residing in or who shall hereafter come to reside in any part of Great Britain or Ireland with intent to settle therein, shall enjoy all the rights and capacities which a natural born subject of the United Kingdom can enjoy or transmit, except that such alien shall not be capable of becoming of Her Majesty's privy council nor a member of either House of Parliament, nor of enjoying such other rights and capacities, if any as shall be specially excepted in and by the certificate to be granted in manner hereinafter mentioned

Sec 16 —And be it enacted, that any woman married or who shall be married to a natural born subject or person naturalized shall be deemed and taken to be herself naturalized and have all the rights and privileges of a natural born subject

7 & 8 Vict, c 66 is rep 33 Vict, c 14, by s 7 of which Act the above clause is rep as to all persons obtaining a certificate of naturalization

The three remaining paragraphs of the section are omitted as being inapplicable to it — the first two were rep by 4 & 5 Anne, c 20, s 28 and 44 & 45 Vict, c 59 (S L R), respectively the third paragraph enacts that no pardon under the great seal shall be available to an impeachment by the House of Commons

shall be due or to be made to her Majesty her heirs or successors for or concerning any lands tenements or other revenue that shall belong to her or them that shall be depending at the time of her Majesties demise (whom God long preserve) or of any of her heirs or successors shall be discontinued or put without day by reason of her or any of their deaths or demises but shall continue and remain in full force and virtue to be proceeded upon notwithstanding any such death or demise

5 And be it further enacted by the authority aforesaid¹ Not hereafter by the demise of her present Majesty or any King or Queen of this realm shall any commission of assize oyer and terminer general goal-delivery or of association writ of admittance writ of si non omnes writ of assistance or commission of the peace be determined but every such commission and writ shall be and continue in full force and virtue in the space of six months next ensuing notwithstanding any such demise unless superseded and determined by her Majesty her heirs or successors and also no original writ writ of nisi prius commission process or proceedings whatsoever in or issuing out of any court of equity nor any process or proceeding upon any office or inquisition nor any writ of certiorari or habeas corpus in any matter or cause either criminal or civil nor any writ of attachment or processe for contempt nor any commission of delegacy or review for any matters ecclesiastical testamentary or maritime or any process thereupon shall be determined abated or discontinued by the demise of her Majesty or any King or Queen of this realm but every such writ commission process and proceeding shall remain in full force and virtue to be proceeded upon as if her Majesty or such other King or Queen had lived notwithstanding any such death or demise

No commis-
sion of as-
sociation or
writ herein
mentioned
determined
by demise of
the crown.

The like en-
actment as to
original
and other
writs and pro-
ceedings
herein men-
tioned.

6 And be it further enacted that all and singular the provisions matters clauses and things whatsoever contained in this Act²

This Act ...
extended to
Ireland, etc

shall extend and be construed to extend to the kingdom of Ireland to the islands of Jersey and Guernsey and to all her Majesties dominions in America and elsewhere

[Section 7 (Commencement)—*Rep 30 & 31 Vict, c 59 Omitted as being spent*]

6 Anne A D. 1707

CHAPTER XLI

Pot Parl, 6
Ann, p 5, n

VIII

8. And be it further enacted by the authority aforesaid that the privy council of her Majesty her heirs or successors for the kingdom of Great

Privy coun-
cil not deter-
mined by

¹ Portion repealed by 30 & 31 Vict, c 59 (S L R), is omitted as being spent

² Reference to 7 & 8 Will 3, c 27, was repealed by 34 & 35 Vict, c 116 (S L R), and is omitted as obsolete

22 *The Foreign Protestants' Naturalization Act, 1708.* [7 Anne, c. 5.

The British Nationality Act, 1730 [4 Geo. 2, c. 21.

death of
Sovereign,
nor the offi-
ces herein
mentioned

Britain shall not be determined or dissolved by the death or demise of her Majesty her heirs or successors but such privy council shall continue and act as such by the space of six months next after such demise unless sooner determined by the next successors to whom the imperial crown of this realm is limited and appointed to go remain and descend

[*The rest of the section is omitted see 1 Edw 7, c 5*]

Rot. Parl.,
7 Ann p 2,
n 4

THE FOREIGN PROTESTANTS' NATURALIZATION ACT, 1708

(7 Anne, c 5.)

An Act for naturalizing Foreign Protestants

[*Whole Act except part printed rep 10 Anne, c 9¹*]

Children of
natural-born
subjects, born
out of Eng-
land, deemed
natural-born
subjects

3. * * * * *² the children of all natural-born subjects born out of the ligeance of her Majesty her heirs and successors shall be deemed adjudged and taken to be natural-born subjects of this kingdom to all intents constructions and purposes whatsoever³

THE BRITISH NATIONALITY ACT, 1730

(4 Geo 2, c 21)

An Act to explain a clause in an Act made in the Seventh year of the Reign of Her late Majesty Queen Anne (for naturalizing Foreign Protestants) which relates to the Children of the Natural-born Subjects of the Crown of England or of Great Britain

Preamble
[7 Ann, c 5]

WHEREAS by an Act of Parliament made in the seventh year of the reign of her late Majesty Queen Anne [intituled An Act for naturalizing of foreign protestants] it is (among other things) enacted that the children of all natural-born subjects, born out of the ligeance of her said late Majesty, her heirs and successors, should be deemed, adjudged, and taken to be natural-born subjects of this kingdom to all intents, constructions, and purposes whatsoever

[10 Ann, c. 9] And whereas in the tenth year of her said late Majesty's reign another Act was made and passed to repeal the said Act (except what related to the children of her Majesty's natural-born subjects born out of her esty's allegiance)

¹ This is numbered cap 5 in the Statutes at large

² Enacting words repealed (U. K.), 51 & 52 Vict., c 3 (S. L. R.)

³ See, too, 4 Geo 2, c 21, 13 Geo 3, c. 21.

And whereas some doubts have arisen upon the construction of the said recited clause in the said Act of the seventh year of her late Majesty's reign

Now for the explaining the said recited clause in the said Act relating to children of natural-born subjects, and to prevent any disputes touching the true intent and meaning thereof, may it please your most excellent Majesty that it may be declared and enacted, and be it declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and the commons, in this present Parliament assembled, and by authority of the same, that all children born out of the ligeance of the crown of England or of Great Britain, or which shall hereafter be born out of such ligeance whose fathers were or shall be natural-born subjects of the crown of England or of Great Britain, at the time of the birth of such children respectively, shall and may, by virtue of the said recited clause in the said Act of the seventh year of the reign of her said late Majesty and of this present Act be adjudged and taken to be, and all such children are hereby declared to be natural-born subjects of the crown of Great Britain to all intents, constructions, and purposes whatsoever

Children of natural-born subjects, born out of the allegiance of the crown, declared to be natural born

2 Provided always, and be it further declared and enacted by the authority aforesaid, that nothing in the said recited Act of the seventh year of her said late Majesty's reign, or in this present Act contained did, doth, or shall extend, or ought to be construed, adjudged, or taken to extend to make any children born or to be born out of the ligeance of the crown of England or of the crown of Great Britain to be natural-born subjects of the crown of England or of Great Britain, whose fathers at the time of the birth of such children respectively were or shall be attainted of high treason by judgment, outlawry, or otherwise, either in this kingdom or in Ireland, or whose fathers at the time of the birth of such children respectively by any law or laws made in this kingdom or in Ireland were or shall be liable to the penalties of high treason or felony in case of their returning into this kingdom or into Ireland without the licence of his Majesty, his heirs or successors, or of any of his Majesty's royal predecessors, or whose fathers at the time of the birth of such children respectively were or shall be in the actual service of any foreign prince or state then in enmity with the crown of England or of Great Britain, but that all such children are, were and shall be and remain in the same state, plight and condition to all intents, constructions, and purposes whatsoever as they would have been in if the said Act of the seventh year of her said late Majesty's reign or this present Act had never been made anything herein or in the said Act of the seventh year of her said late Majesty's reign contained to the contrary in any wise notwithstanding

Children of parents attainted of treason,

or in actual service of foreign princes in enmity with the crown, excepted

3. [*Rep as to U K 30 & 31 Vict, c 59 (S L R) Omitted as being partly spent and partly inapplicable to India.*]

THE EAST INDIA COMPANY ACT, 1770.¹

(10 Geo. 3, c. 47.)

An Act for better regulating persons employed in the service of the East India Company and for other purposes therein mentioned

1 [Rep 33 Geo 3, c 52, s 146]

2 And whereas sundry captains and other officers and mariners of ships, in the service of the said united company, bound to India, do oftentimes in a clandestine manner carry and transport to the East Indies aforesaid great quantities of artillery, ordnance, musquets, firearms, ammunition and warlike stores and there sell and dispose thereof to the natives, and also to powers in those parts at war or in enmity with the said united company, or to other persons through whose hands the same do or may come to the use of such powers, to the great injury of the publick as well as of the said united company and their possessions and trade in India therefore, to the end that such evil practices may for the future be remedied and prevented

2* * * * * all and every officer and officers, mariners, or other person or persons, in the service of the said united company, who shall, from and after the passing of this Act, carry, transport or send, or cause to be carried, transported or sent, to the East Indies aforesaid, or shall put or cause to be put on board any ship in the service of the said united company trading to the East Indies any artillery, ordnance, musquets, firearms, ammunition, or warlike stores of any kind whatsoever, or shall knowingly aid or assist therein, without the license or authority of the said united company, with intention or for the purpose of transporting, selling, trafficking, bartering, exchanging or otherwise uttering or disposing of the same in the East Indies, or within the limits of the said united company's trade, shall, in every such case, be deemed and adjudged to be guilty of a high crime and misdemeanour, and as such shall and may be prosecuted for the same in His Majesty's Court of King's Bench at Westminster,

and such person or persons so offending, being convicted, shall be liable to such corporal punishment or fine as the said court shall think fit³

3 [Rep as to U K 50 & 51 Vict, c 59 (S L R) Omitted as being obsolete and inapplicable to India]

¹ So much of this Act as subjects any persons concerned in the illicit trade to, in or from the East Indies therein recited, or in any trade thereby punishable, to any penalty or penalties, was repealed by 33 Geo 3, c 52, s 146

² The words "be it further enacted by the authority aforesaid that" have been omitted on the authority of section 4 of the Statute Law Revision Act, 1894 (57 & 58 Vict, c 56)—see *post*

³ The whole of s 2 was omitted from the Act as printed in the *Statutes Revised*, Vol II, Ed 1871 It is reproduced, however, in the edition of 1889

Persons in
service of
company
transporting
warlike
stores, etc

Penalty

4. And * * * * * ¹if any person or persons Company's servants in the East Indies guilty of oppression or other crime, may be tried in the Court of King's Bench, and punished as if offence committed in England whatsoever employed by or in the service of the said united company, in any civil or military station, office, or capacity whatsoever in the East Indies, or deriving or claiming any power, authority, or jurisdiction by or from the said united company, shall, after the passing of this Act, be guilty of oppressing any of his Majesty's subjects beyond the seas within their respective jurisdictions, or in the exercise of any such station, office, employment, power, or authority derived or claimed by, from, or under the said united company, or shall be guilty of any other crime or offence, such oppressions, crimes, and offences shall and may be enquired of, heard and determined in his Majesty's Court of King's Bench in England,

and such punishments shall be inflicted on such offenders as are usually inflicted for offences of the like nature committed in that part of Great Britain called England,

and ¹* * the same and all other offences committed against this Act may be alleged to be committed, and may be laid, enquired of, and tried in the county of Middlesex Crime may be alleged to be committed in Middlesex

5 [*Rep as to U K 56 & 57 Vict, c 61 Omitted as being inapplicable to India*]

6. And be it further enacted by the authority aforesaid that this Public Act, Act shall be deemed and taken to be a public Act, of which notice shall be judicially taken by all judges, justices and other persons whatsoever, without specially pleading the same ²

7 [*Rep as to U K 56 & 57 Vict, c 61 Omitted as being inapplicable to India*]

THE BRITISH NATIONALITY ACT, 1772

(13 Geo. 3, c 21)

An Act to extend the Provisions of an Act, made in the Fourth year of the reign of His late Majesty King George the Second, intituled "An Act to explain a Clause in an Act, made in the Seventh year of the reign of Her late Majesty Queen Anne, for naturalizing Foreign Protestants, which relate to the children of the natural-born subjects of the Crown of England, or of Great Britain," to the Children of such Children

WHEREAS divers natural-born subjects of Great Britain who profess, and exercise the protestant religion, through various lawful causes,

¹ The enacting words and the word "that" before the words "the same" were repealed (U K) by 51 & 52 Vict, c 3 (S L R)

² S 6 was repealed as to the United Kingdom by 50 & 51 Vict, c 59 (S L R)

especially for the better carrying on of commerce, have been, and are, obliged to reside in several trading cities and other foreign places, where they have contracted marriages and brought up families

And whereas it is equally just and expedient that the kingdom should not be deprived of such subjects, nor lose the benefit of the wealth that they have acquired, and therefore that not only the children of such natural-born subjects, but their children also, should continue under the allegiance of his Majesty, and be intitled to come into this kingdom, and to bring hither and realize or otherwise employ their capital, but no provision hath hitherto been made to extend farther than to the children born out of the ligeance of his Majesty, whose fathers were natural-born subjects of the Crown of England, or of Great Britain

May it therefore please your most excellent Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that all persons born, or who hereafter shall be born, out of the ligeance of the Crown of England, or of Great Britain, whose fathers were or shall be, by virtue of a Statute made in the fourth year of King George the Second to explain a clause in an Act made in the seventh year of the reign of Her Majesty Queen Anne, for naturalizing foreign protestants, which relates to the natural-born subjects of the Crown of England, or of Great Britain, intitled to all the rights and privileges of natural-born subjects of the Crown of England, or of Great Britain, shall and may be adjudged and taken to be, and are hereby declared and enacted, to be natural-born subjects of the Crown of Great Britain, to all intents, constructions, and purposes whatsoever, as if he and they had been and were born in this kingdom, any thing contained in an Act of the twelfth year of the reign of King William the Third, intituled "An Act for the further limitation of the Crown, and better securing the rights and liberties of the subject," to the contrary in any wise notwithstanding

2 Provided always * * * * *¹ that nothing in this present Act contained shall extend, or be constructed, adjudged, or taken to extend, to make any persons born or to be born out of the ligeance of the Crown of England, or of the Crown of Great Britain, to be natural-born subjects of the Crown of Great Britain contrary to all or any of the provisoes, exceptions, limitations, and restrictions, contained in the aforesaid Act made in the fourth year of the reign of his said late Majesty, or to repeal, abridge, or alter the same,

¹ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

[4 Geo 2,
c 21]
[7 Ann c 5]

[12 & 13 W 3,
c 2]

Provisoos,
etc ,
of 4 Geo 2,
[c 21] not
repealed by
this Act

13 Geo. 3, c. 21] *The British Nationality Act, 1772.*

27

13 Geo. 3, c. 63.] *The East India Company Act, 1772.*

but all such clauses shall be and remain in the same state, plight, and condition, to all intents, constructions, and purposes whatsoever, as they would have been if this present Act had never been made.

3. [Rep. 34 & 35 Vict., c 48]

4. Provided always * * * * *¹ that no person shall be ~~Notwithstanding~~^{enabled} enabled hereby to defeat any estate, right, or interest which upon the ~~last day of this session~~^{last day of this session} shall be lawfully vested in any other person, or ~~or any person~~^{or any person} to claim or demand any estate or interest which shall hereafter accrue, ~~day after the~~^{day after the} unless such claim or demand be made within five years next after the ~~same~~^{same} shall accrue

In case of difference of opinion, the decision of the major part to be conclusive, and if votes equal the governor or eldest counsellor to have a casting voice

8. And * * * *¹ in all cases whatsoever wherein any difference of opinion shall arise upon any question proposed in any consultation, the said governor-general and council shall be bound and concluded by the opinion and decision of the major part of those present

and if it shall happen that, by the death or removal, or by the absence of any of the members of the said council, such governor-general and council shall happen to be equally divided, then and in every such case the said governor-general, or, in his absence, the eldest counsellor present, shall have a casting voice, and his opinion shall be decisive and conclusive

Power of the governor general in council in Madras, Bombay, and Bencoolen

9 And * * * *¹ the said governor-general and council or the major part of them, shall have, and they are hereby authorised to have power of superintending and controuling the government and management of the presidencies of Madras, Bombay and Bencoolen respectively, so far and in so much as that it shall not be lawful for any president and council of Madras, Bombay or Bencoolen for the time being to make any orders for commencing hostilities, or declaring or making war, against any Indian princes or powers, or for negotiating or concluding any treaty of peace, or other treaty, with any such Indian princes or powers, without the consent and approbation of the said governor-general and council first had and obtained, except in such cases of imminent necessity as would render it dangerous to postpone such hostilities or treaties until the orders from the governor-general and council might arrive, and except in such cases where the said presidents and councils respectively shall have received special orders from the said united company,

and any president and council of Madras, Bombay or Bencoolen who shall offend in any of the cases aforesaid shall be liable to be suspended from his or their office by the order of the said governor-general and council;²

and every president and council of Madras, Bombay and Bencoolen for the time being shall and they are hereby respectively directed and required to pay due obedience to such orders as they shall receive touching the premises from the said governor-general and council for the time being * * * *³,

and the said governor-general and council for the time being shall and they are hereby directed and required to pay due obedience to all such orders as they shall receive from the court of directors of the said united company, and to correspond from time to time, and constantly and diligently transmit to the said court an exact particular of all

¹ Enacting words repealed (U K), 51 & 52 Vict, c 3 (S L R)

² Modified by 33 Geo 3, c 52, s 43

³ Words repealed by 55 & 56 Vict, c 19 (S L R), have been omitted

advices or intelligence, and of all transactions and matters whatsoever, that shall come to their knowledge relating to the government, commerce, revenues or interest of the said united company, * * *

10 And * * * *² Warren Hastings, Esquire, shall be the first governor-general, and lieutenant-general John Clavering, the Honourable George Monson, Richard Barwell, Esquire, and Philip Francis Esquire, shall be the four first councillors,

and they and each of them shall hold and continue in his and their respective offices for and during the term of five years from the time of their arrival at Fort William in Bengal, and taking upon them the government of the said presidency, * * * *¹,

and from and after the expiration of the said term of five years, the power of nominating and removing the succeeding governor-general and council shall be vested in the directors of the said united company³

11. [*Repeals to U K 50 & 51 Vict, c 59 (S L R)* Omitted as being spent]

12 [*Repeals 55 & 56 Vict, c 19 (S L R)*]

13 And whereas his late Majesty King George the Second did by his letters patent, bearing date at Westminster this eighth day of January, in the twenty-sixth year of his reign, grant unto the said united company of merchants of England trading to the East Indies his royal charter, thereby amongst other things, constituting and establishing courts of civil, criminal and ecclesiastical jurisdiction at the said united company's respective settlements at Madras-patnam, Bombay on the Island of Bombay, and Fort William in Bengal, which said charter does not sufficiently provide for the due administration of justice in such manner as the state and condition of the company's presidency of Fort William in Bengal, so long as the said company shall continue in the possession of the territorial acquisitions before mentioned, do and must require

Be it therefore enacted by the authority aforesaid, that it shall and may be lawful for his Majesty, by charter or letters patent under the great seal of Great Britain, to erect and establish a Supreme Court of Judicature at Fort William aforesaid, to consist of a chief justice and three other judges, being barristers in England or Ireland, of not less than five years standing to be named from time to time by his Majesty, his heirs and successors,

His Majesty may, by charter or letters patent, establish a Supreme Court of Judicature at Fort William, to consist of a chief justice and three other judges

¹ Words repealed by 55 & 56 Vict, c 19 (S L R), have been omitted

² Enacting words repealed (U K), 51 & 52 Vict, c 3 (S L R)

³ Seems spent, but is probably the origin of the five years' rule which is still observed in practice

which said Supreme Court of Judicature shall have, and the same court is hereby declared to have, full power and authority to exercise and perform all civil, criminal, admiralty and ecclesiastical jurisdiction, and to appoint such clerks and other ministerial officers of the said court, with such reasonable salaries, as shall be approved of by the said governor-general and council, and to form and establish such rules of practice, and such rules for the process of the said court, and to do all such other things as shall be found necessary for the administration of justice and the due execution of all or any of the powers which, by the said charter, shall or may be granted and committed to the said court, and also shall be at all times a court of record, and shall be a court of oyer and terminer and goal-delivery, in and for the said town of Calcutta and factory of Fort William in Bengal aforesaid, and the limits thereof, and the factories subordinate thereto

Extent of the jurisdiction and powers of his Majesty's charter,

14 Provided nevertheless ¹ * * * * that the said new charter which his Majesty is hereinbefore empowered to grant, and the jurisdiction, powers, and authorities to be thereby established, shall and may extend to all British subjects who shall reside in the kingdoms or provinces of Bengal, Behar and Orissa, or any of them, under the protection of the said united company, and the same charter shall be competent and effectual,

and the Supreme Court of Judicature

and the Supreme Court of Judicature therein and thereby to be established shall have full power and authority to hear and determine all complaints against any of his Majesty's subjects for any crimes, misdemeanours or oppressions, committed or to be committed, and also to entertain, hear and determine any suits or actions whatsoever against any of his Majesty's subjects in Bengal, Behar and Orissa, and any suit, action or complaint against any person who shall, at the time when such debt or cause of action or complaint shall have arisen, have been employed by, or shall then have been, directly or indirectly, in the service of the said united company, or of any of his Majesty's subjects

Indictments and informations against governor general, etc

15 Provided also, that the said court shall not be competent to hear, try or determine any indictment or information against the said governor-general, or any of the said council for the time being, for any offence (not being treason or felony) which such governor-general or any of the said council shall or may be charged with having committed in Bengal, Behar and Orissa

16 [*Rep 55 & 56 Vict, c 19 (S L R), rep also as to B I by XIV of 1870, s 1 and sch*]

The governor-general, council, etc, not

17 And ¹ * * * nothing in this Act shall extend to subject the person of the governor-general or of any of the said council or

¹ Enacting words repealed (U K.), 51 & 52 Vict, c 3 (S L R)

chief justice and judges respectively for the time being to be arrested or imprisoned upon any action, suit or proceeding in the said court subject to be arrested or imprisoned

18 & 19. [*Rep* 55 § 56 *Vict*, c 19 (*S L R*), s 18 also *rep* as to *B I* by *VI* of 1874, s 2 and *sch*, and s 19 by *XIV* of 1870, s 1 and *sch*]

20 [*Rep* as to *U K* 50 § 51 *Vict*, c 59 (*S L R*), *rep* also as to *B I* by *XIV* of 1870, s 1 and *sch*]

21 & 22 [*Rep* as to *U K* 50 § 51 *Vict*, c 59 (*S L R*)
Omitted as being rendered obsolete by 3 & 4 *Will* 4, c 85, s 76, 24 & 25 *Vict*, c 67, s 4, and c 104, s 6]

23 And * * * * *¹ no governor-general or any of the council of the said united company's presidency of Fort William in Bengal, or any chief justice or any of the judges of the Supreme Court of Judicature at Fort William aforesaid, shall, directly or indirectly, by themselves, or by any other person or persons for his or their use or on his or their behalf accept, receive or take, of or from any person or persons, in any manner or on any account whatsoever, any present, gift, donation, gratuity or reward, pecuniary or otherwise, or any promise or engagement for any present, gift, donation, gratuity or reward, *
* * * * *²

24 And * * * * *¹ from and after the first day of August one thousand seven hundred and seventy-four no person holding or exercising any civil or military office under the crown or the said united company in the East Indies, shall accept, receive or take, directly or indirectly, by himself or any other person or persons on his behalf, or for his use or benefit, of and from any of the Indian princes or powers, or their ministers or agents (or any of the natives of Asia) any present, gift, donation, gratuity or reward, pecuniary or otherwise, upon any account or on any pretence whatsoever, or any promise or engagement for any present, gift, donation, gratuity or reward, * * * * *³

25 Provided always * * * * *¹ that nothing herein contained shall extend or be construed to extend to prohibit or prevent any person or persons who shall carry on or exercise the profession of a counsellor at law, a physician or a surgeon, or being a chaplain, from accepting, taking or receiving any fees, gratuities or rewards, in the way of their profession Counsellors, physicians, surgeons, and chaplains excepted.

26 to 29 [*Rep* 24 *Geo* 3, *Sess* 2, c 25, s 47, and 33 *Geo* 3, c 52, s 146, 27 to 29 also *rep* as to *B I* by *XIV* of 1870, s 1 and *sch*]

¹ Enacting words repealed (*U K*), 51 & 52 *Vict*, c 3 (*S L R*)

² Rest of the section making it unlawful for the governor general, or members of his council or the chief justice or judges of the Supreme Court to be concerned in traffic or commerce is omitted as being repealed by 33 *Geo* 3, c. 52, s 146

³ Rest of the section subjecting such person to penalties and forfeitures is omitted as being repealed by 24 *Geo* 3, *Sess* 2, s 47

any of the parties interested, and shall be sent to his Majesty, in his Court of King's Bench closed up, and under the seals of two or more of the judges of the said court and one or more of the said judges shall deliver the same to the agent or agents of the party or parties requiring the same, which said agent or agents (or, in case of his or their death, the person into whose hands the same shall come,) shall deliver the same to one of the clerks in court of his Majesty's Court of King's Bench, in the publick office, and make oath that he received the same from the hands of one or more of the judges of such court in India (or, if such agent be dead, in what manner the same came into his hands), and that the same has not been opened or altered since he so received it (which said oath such clerk in court is hereby authorised and required to administer)

and such depositions, being duly taken and returned according to the true intent and meaning of this Act, shall be allowed and read, and shall be deemed as good and competent evidence as if such witness had been present and sworn and examined *vivâ voce* at any trial for such crimes or misdemeanours as aforesaid in his Majesty's said Court of King's Bench, any law or usage to the contrary notwithstanding, and all parties concerned shall be intitled to take copies of such depositions at their own costs and charges

Offences
against this
Act commit-
ted by the
justices
judges to
deter-
mined by the
court of
King's
Bench

41 And * * * *¹ in case the said chief justice or judges of the said Supreme Court of Judicature, or any of them, for the time being, shall commit any offence against this Act, or be guilty of any corrupt practice or other crime, offence, or misdemeanour in the execution of their respective offices, it shall and may be lawful for his Majesty's said Court of King's Bench in England, upon an information or indictment laid or exhibited in the said court for such crime, offence or misdemeanour, upon motion to be made in the said court, to award such writ or writs of mandamus as aforesaid, requiring the governor-general and council of the said united company's settlement at Fort William aforesaid, who are hereby respectively authorised and required accordingly, to assemble themselves in a reasonable time, and to cause all such proceedings to be had and made as are herein-before respectively directed and prescribed concerning the examination of witnesses; and such examination so taken shall be returned and proceeded upon in the same manner in all respects as if the several directions herein-before prescribed and enacted in that behalf were again repeated

The chan-
cellor, or
speaker of
the House of
Commons,
may issue
warrants for
the examina-

42 And * * * *¹ in all cases of proceedings in Parliament touching any offences against this Act, or any other offences committed in India, it shall and may be lawful for the lord high chancellor or speaker of the House of Lords, and also for the speaker of the House of Commons for the time being, in like manner to issue his or

¹ Enacting words repealed (U K), 51 & 52 Vict , c. 3 (S L R)

their warrant or warrants to the governor-general and council of the said united company's presidency of Fort William, and to the chief justice and judges of the said Supreme Court of Judicature, or the judges of the Mayor's Court at Madras, Bombay or Bencoolen, as the case may require, for the examination of witnesses,

tion of witnesses in India, which shall be deemed competent evidence to both houses of Parliament

and such examination shall be returned to the said lord high chancellor or speaker of the House of Lords, or to the speaker of the House of Commons respectively, and proceeded upon in the same manner in all respects as if the several directions hereinbefore prescribed and enacted in that behalf were again particularly repeated, and every such examination, returned either to the lord chancellor or speaker of the House of Lords, or to the speaker of the House of Commons as aforesaid, shall be deemed good and competent evidence, and shall be allowed and read in both houses of Parliament, or either of them respectively, as occasion may require, any law or usage to the contrary notwithstanding

43 And whereas by the usage and custom of Parliament, no proceedings by bill in Parliament have continuance from one session to another

And whereas it would be impracticable that the examination taken upon such warrant as aforesaid could ever be returned within the ordinary length of a session of Parliament

Be it enacted by the authority aforesaid, that from and after the first day of November one thousand seven hundred and seventy-three, no proceedings in Parliament touching any offence committed or to be committed in India, wherein such warrant as aforesaid shall have been issued, shall be discontinued by any prorogation or dissolution of the Parliament, but that such proceedings may be resumed and proceeded upon in a subsequent session or in a subsequent Parliament, in either house of Parliament, in like manner to all intents and purposes as they might have been in the course of one and the same session, any law, usage or custom to the contrary notwithstanding

No proceedings in Parliament touching offences in India to be discontinued by prorogation or dissolution

44 And whereas his Majesty's subjects are liable to be defeated of their several rights, titles, debts, dues, demands or suits for which they have cause arising in India against other subjects of his Majesty

Writs of mandamus may be awarded by the courts at Westminster, when the company commence suits in law or equity there, for examination of witnesses as in India

Now, for preventing such failure of justice, be it further enacted by the authority aforesaid, that when and as often as the said united company, or any person or persons whatsoever, shall commence and prosecute any action or suit in law or equity, for which cause hath arisen or shall hereafter arise in India, against any other person or persons whatever, in any of his Majesty's courts at Westminster, it shall and may be lawful for such court respectively, upon motion there to be made to provide and award such writ or writs in the nature of a mandamus, or commission as aforesaid to the chief justice and judges of the said Supreme Court of Judicature for the time being, or the judges of the

Mayor's Court at Madras, Bombay, or Bencoolen, as the case may require, for the examination of witnesses as aforesaid,

and such examination, being duly returned, shall be allowed and read, and shall be deemed good and competent evidence, at any trial or hearing between the parties in such cause or action, in the same manner in all respects as if the several directions herein-before prescribed and enacted in that behalf were again repeated

No depositions returned to be allowed as evidence in capital cases not proceeded against in Parliament.

45 Provided nevertheless * * * *¹ that no such depositions taken and returned as aforesaid by virtue of this Act shall be allowed or permitted to be given in evidence in any capital cases other than such as shall be proceeded against in Parliament, anything in this Act contained to the contrary notwithstanding

46. [*Rep 55 & 56 Vict, c 19 (S L R)*]

Public Act

47. And be it further enacted by the authority aforesaid that this Act shall be deemed and taken to be a public Act, of which notice shall be judicially taken by all judges, justices and other persons whatsoever, without specially pleading the same² &

THE EAST INDIA COMPANY ACT, 1780³

(21 Geo 3, c 70)

An Act to explain and amend so much of an Act made in the Thirteenth Year of the Reign of his present Majesty, intituled "An Act for establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe," as relates to the Administration of Justice in Bengal, and for the relief of certain Persons imprisoned at Calcutta in Bengal under a Judgment of the Supreme Court of Judicature, and also for indemnifying the Governor-General and Council of Bengal, and all Officers who have acted under their Orders or Authority, in the undue Resistance made to the Process of the Supreme Court

Preamble.
Recital of
13 Geo 3,
c 63.

WHEREAS, in virtue of an Act passed in the thirteenth year of his present Majesty's reign, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe," his Majesty, by his royal letters patent of the twenty-sixth day of March, in the fourteenth year of his reign, did create and constitute a court of record, to be within the factory of Fort William at Calcutta in Bengal, called the Supreme

¹ Enacting words repealed (U K) 51 & 52 Vict, c 3 (S L R)

² S 47 as repealed as to the U K by 50 & 51 Vict, c 59 (S L R)

³ Ext Act XVIII of 1850, s 12, Act XII of 1851, s 16

Court of Judicature at Fort William in Bengal, with sundry directions, powers, and authorities to the said court in the said letters patent set forth and expressed

And whereas many doubts and difficulties have arisen concerning the true intent and meaning of certain clauses and provisions in the said Act and letters patent, and by reason thereof dissension hath arisen between the judges of the Supreme Court and the governor-general and council of Bengal, and the minds of many inhabitants subject to the said government have been disquieted with fears and apprehensions, and further mischiefs may possibly ensue from the said misunderstandings and discontents if a reasonable and suitable remedy be not provided

And whereas it is expedient that the lawful government of the provinces of Bengal, Behar and Orissa should be supported that the revenues thereof should be collected with certainty and that the inhabitants should be maintained and protected in the enjoyment of all their ancient laws, usages, rights and privileges

main liable
to any com-
plaint before
a competent
court in this
kingdom

council, jointly or severally, or any other person or persons acting by or under their order, from any complaint, suit or process before any competent court in this kingdom, or to give any other authority whatsoever to their acts than acts of the same nature and description had by the laws and statutes of this kingdom before this Act was made

If any person
making com-
plaint to the
Supreme
Court against
the governor-
general, etc.,
shall execute
a bond to the
company to
prosecute the
same in some
competent
court in
Great Britain,
etc.,

5. And in order to prevent all abuse of the powers given to the governor-general and council, be it further enacted, that in case any person by himself or his attorney or counsel shall make a complaint to the Supreme Court, and enter the same in writing, and upon oath, of any oppression or injury, charging the same to be committed by the said governor-general or any member or members of the council, or any other person or persons by or in virtue of any order given by the said governor-general and council, and shall execute a bond with some other person whom the said court shall deem responsible jointly and severally, to the United East India Company, in such a penalty as the court shall appoint, effectually to prosecute the said complaint by indictment, information or action in some competent court in Great Britain, within two years of the making of the same, or of the return into Great Britain of the party or parties against whom the same is made, that then and in such case the party complaining shall be and is hereby enabled to compel by order of the court the production in the said Supreme Court of true copy or copies of the order or orders of council complained of, and to have the same authenticated by the court, and to examine witnesses upon the matter of the said complaint, and also on the part of the person or persons complained of,

such person
may compel,
by order of
the court, the
production
of copies of
the orders
complained
etc

and the said parties, as well complaining as complained of, shall have and enjoy severally all manner of advantages, rights and privileges relative to proof of the said complaint or defence, and also relative to any mandamus or commission to be issued by any of his Majesty's courts in Westminster-hall, in case the court upon motion shall think fit to issue the same, as are provided in case of any suit in such cases by an Act of the thirteenth year of his Majesty's reign, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe,"

and the Supreme Court shall have the same powers for the compelling witnesses to appear and be examined, and the same rules and directions shall be observed for the transmitting the depositions of witnesses and other papers to this kingdom, as are provided by the said recited Act

6 And * * * *¹ all copies so authenticated of orders of the said governor-general and council, and also the depositions which shall have been taken in manner aforesaid before the Supreme Court, shall be received in evidence in any of his Majesty's courts of law or equity at Westminster

¹ Fracting words repealed (U K) 51 & 52 Vict c 3 (S L R)

7 And * * * *¹ no prosecution or suit shall be carried on against the said governor-general or any member of the council before any court in Great Britain (the High Court of Parliament only excepted) unless the same shall be commenced within five years after the offence committed, or within five years after his arrival in England

Limitation of actions

8 And * * * *¹ the said Supreme Court shall not have or exercise any jurisdiction in any matter concerning the revenue, or concerning any act or acts ordered or done in the collection thereof, according to the usage and practice of the country, or the regulations of the governor-general and council

Supreme Court not to have any jurisdiction in any matter concerning the revenue

9 to 16. [*Rep 55 & 56 Vict , c 19 (S L R) , also rep as to B I by XII of 1870, s 1 and sch]*

17 Provided always * * * *¹ that the Supreme Court of Judicature at Fort William in Bengal shall have full power and authority to hear and determine in such manner as is provided for that purpose in the said charter or letters patent all and all manner of actions and suits against all and singular the inhabitants of the said city of Calcutta

How the Supreme Court shall determine actions between Mahomedan and Gentû inhabitants of Calcutta

Provided that their inheritance and succession to lands, rents and goods, and all matters of contract and dealing between party and party, shall be determined in the case of Mahomedans by the laws and usages of Mahomedans, and in the cases of Gentûs by the laws and usages of Gentûs, and where only one of the parties shall be a Mahomedan or Gentû, by the laws and usages of the defendant

18 And in order that regard should be had to the civil and religious usages of the said natives, be it enacted, that the rights and authorities of fathers of families and masters of families according as the same might have been exercised by the Gentû or Mahomedan law shall be preserved to them respectively within their said families,

The authority of fathers and masters of families among the natives to be preserved, etc

nor shall any acts done in consequence of the rule and law of caste respecting the members of the said families only be held and adjudged a crime although the same may not be held justifiable by the laws of England

19 to 26 [*Rep 55 & 56 Vict , c 19 (S L R) , XIV of 1870, s 1 and sch]*

27 & 28 [*Rep 35 & 36 Vict , c 63 (S L R)]*

¹ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

THE EAST INDIA COMPANY ACT, 1784¹

(24 Geo 3, Sess 2, c. 25.)

An Act for the better Regulation and Management of the Affairs of the East India Company, and of the British Possessions in India, and for establishing a Court of Judicature for the more speedy and effectual Trial of Persons accused of offences committed in the East Indies

1 to 63 [Rep 35 & 36 Vict, c 63 (S L R)]

Method of
procedure
against Brit-
ish subjects
who shall be
guilty of
extortion or
other misde-
meanors in
the East
Indies

64 And whereas it would conduce to the better government, management and ordering of the territories, possessions, revenues and commerce of the said united company² if some more effectual course than the common law hath provided were devised for the prosecuting and bringing to speedy and condign punishment persons guilty of the crime of extortion and other misdemeanors committed in the East Indies by British subjects holding offices or employments there under his Majesty, his heirs or successors, or under the said united company

Be it therefore enacted by the authority aforesaid, that it shall and may be lawful to and for the coroner and attorney of our lord the King in the Court of King's Bench, by rule of the Court of King's Bench, to be obtained upon motion to be made for that purpose at the instance of any person or persons (and which rule the said court is hereby empowered to grant at their discretion, if the magnitude and circumstances of the case shall appear to the said court to render it proper), or for his Majesty's attorney general, or for the court of directors or court of proprietors of the said united company in the name of the said united company, to exhibit in the said Court of King's Bench an information against any such person for any such offence as aforesaid committed after the first day of March one thousand seven hundred and eighty-five,

whereupon the said court shall and may, at the instance of the prosecutor, cause the party against whom such information shall have been exhibited as aforesaid to be attached, and may and shall order him to stand committed to the prison of the Marshalsea or to the Tower of London or to the gaol of Newgate, at the discretion of the said court, there to be detained until he shall be delivered by due course of law, or until he, together with two sufficient sureties, shall have entered into a recognizance unto the King's Majesty, his heirs and successors, in such sum of money and with such condition for his appearance and for satisfying the judgment to be pronounced in and upon such information, as to the said court in its discretion shall seem meet,

¹ This Act is commonly known as Pitt's Act It first constituted the Board of Control

² i.e., the United Company of Merchants trading to the East Indies

and when the defendant shall have appeared and pleaded to the said information, the chief justice or some of the justices of the said Court of King's Bench shall within ten days (unless any mandamus shall be granted for the examination of witnesses as herein-after provided, upon a motion to be made within a time to be limited by the said Court of King's Bench for that purpose) deliver the record of the said information and plea to the lord high chancellor of Great Britain, or lord keeper or lords commissioners for the custody of the great seal of Great Britain, who shall thereupon issue a commission under the said great seal in manner herein-after provided

65 And * * * *¹ if any person or persons against whom any information shall be exhibited under the authority of this Act shall neglect, or refuse, within such respective times as shall be allowed to him or them for those purposes by the rules or according to the discretion of the said court to appear and plead not guilty to such information, it shall and may be lawful for his Majesty's attorney general or other prosecutor to cause an appearance and the plea of not guilty to be entered for such person or persons, and the said information shall thereupon proceed as if the party or parties had appeared and pleaded not guilty thereto

If any person accused shall neglect to appear, etc, the information shall proceed notwithstanding

66 And * * * *² within thirty days from the commencement of the next and every future session of Parliament, the lords spiritual and temporal shall proceed to chuse, nominate and appoint twenty-six or more members of their house, and the commons of Great Britain, in Parliament assembled, forty or more members of the said House of Commons, to be chosen by ballot,

Constitution of Commission

and the speaker of each house respectively shall cause the list of the said names so chosen to be transmitted under their respective hands and seals to the clerk of the Crown in Chancery or his deputy,

and * *² whenever a commission is to be issued under the great seal of Great Britain by virtue of this Act the lists so returned shall be delivered over to such three judges of the courts of King's Bench, Common Pleas or Exchequer, as the said courts shall for that purpose respectively appoint, one judge being nominated from each of the said courts respectively,

and if the said lists shall contain more than twenty-six members of the House of Lords or forty of the House of Commons respectively, the said judges shall, within three days from the receipt thereof, cause the names contained in the said list or lists of either or both houses respectively (as the case may happen) to be put into a box or boxes, and twenty-six names of the said peers and forty names of the said commons to be publicly drawn by lot in the presence of the said judges,

¹ Enacting words repealed (U K) 51 & 52 Vict , c 3 (S L R)

² The word " that " was repealed (U K), *ibid*

and * *¹ the said three judges shall have power and authority, and they are hereby required to give notice to all such members of the two houses of Parliament, whose names shall have been so returned or drawn by lot as aforesaid, and also to his Majesty's attorney general or other prosecutor, and also to the party accused, as the case may require, of the time and place to be appointed by the said judges (not exceeding twenty days from such lists being delivered to them as aforesaid) for proceeding in the execution of this Act, and the names of all such members of either House of Parliament as shall not attend in consequence of such notice shall be transmitted to the speaker of each house respectively within three days if Parliament be then sitting, or if not, within three days after the next meeting of Parliament,

and all such persons as shall appear to have made default as aforesaid shall forfeit to his Majesty, his heirs and successors, the sum of five hundred pounds each, unless they shall offer such excuses as shall appear to each House of Parliament respectively to be valid and sufficient,

and if any member of either House of Parliament whose name shall have been drawn by lot in the presence of the said judges as aforesaid shall have departed this life, or shall hold any civil office of profit under the crown during his Majesty's pleasure, or shall be or shall have been a member of the said board for the affairs of India,² or shall be or shall have been a director of the said company, or shall hold or shall have held any office or employment in the service of the said company in India, then in each and every such case another name shall be drawn out of the same box (if any such name there be) instead of the name of such person

The senior judge present to be president of the meeting

67 And * * * *³ the senior of the said three judges present at the respective meetings of the said special commissioners shall be the president of such meeting or meetings, and * *¹ all questions, resolutions and determinations before the said special commissioners shall be by a majority of voices of the special commissioners then and there present,

and if the voices shall be equal, the then president shall have a second or casting voice

Manner of choosing the twenty six members of the House of Peers

68 And * * * *³ the members of the House of Peers hereby directed to be named by the said house for the purposes aforesaid shall be chosen, nominated and appointed in the manner following, (that is to say,) * *¹ at any time within thirty days from the commencement of the next and every future session of Parliament, when it shall appear that there are fifty lords spiritual and temporal at the least then present, the lords shall be called, and if there are fifty present the lords shall thereupon proceed to deliver in at the table lists, each of which lists shall

¹ The word "that" was repealed (U K.) by 51 & 52 Vict., c. 3 (S. L. R.)

² i. e., the Board of Commissioners for the Affairs of India

³ Enacting words repealed (U K.), 51 & 52 Vict., c. 3 (S. L. R.)

contain the names of twenty-six lords, and shall be signed by the lord who delivers such list, which list being delivered in shall be referred to a committee of lords to be then appointed, who shall examine the said lists, and forthwith report to the house the name of every such lord whose name shall appear on ten such lists,

and if the names so returned shall not amount to twenty-six at the least, the lords present shall be required to deliver in fresh lists, each list containing a number of names equal to that number by which the list returned shall fall short of twenty-six, and so as often as the case shall happen, and no lord present when the house shall be called over shall depart until the said lists of twenty-six peers shall be made as aforesaid

69 And * * * *¹ the members of the House of Commons hereby directed to be named by that house for the purposes aforesaid shall be chosen, nominated and appointed in the manner following, (that is to say,) * *² at any time within thirty days from the commencement of the next and every future session of Parliament (and after the speaker of the said house shall have taken the chair), it shall and may be lawful for any member after four of the clock in the afternoon to require that the doors of the house shall be locked, and that the house shall be told by the speaker,

Manner of
choosing the
forty mem-
bers of the
House of
Commons

and if it shall appear that there are two hundred members or more then present the members of the house shall thereupon proceed to deliver in at the table lists, each of which lists shall contain the names of forty members, which lists being delivered in shall be referred to a committee of five members to be then appointed, who shall examine the said lists, and shall forthwith report to the house the name of every such member whose name shall appear on twenty of the said lists,

and if the names so returned shall not amount to forty at the least the members present shall be required to deliver in fresh lists each list containing a number of names equal to that number by which the list returned shall fall short of forty, and so as often as the case shall happen - and the doors of the house shall not be opened until the said list of forty members or more shall be fully completed in manner aforesaid.

thirteen peers and twenty commoners of forty commoners, which shall have been drawn by lot in presence of the three judges as aforesaid, as shall personally appear at the time and place appointed as aforesaid, shall be put into a box, to be drawn out by lot in presence of the said judges and of the parties or their counsel or agents,

Prosecutor may also make challenges and the person against whom such information shall have been exhibited as aforesaid shall have the liberty, as the said names are drawn out, to make peremptory challenges to the number of thirteen of the peers and twenty of the members of the House of Commons whose names shall have been put into the said box, and his Majesty's attorney general or other prosecutor, as the case may happen, shall have power to make challenges to any of the names which shall be so drawn out, and to assign for cause of challenge any such matter as in the opinion of the three judges or the majority of them shall appear in their discretion sufficient to set them aside for the purpose of obtaining them equal justice,

The first four names of the peers, and the first six of the commoners, drawn out after the challenges, etc., shall be returned by the three judges to the lord chancellor, to be inserted, with those of the said judges, in a special commission, etc. and the first four names of the said peers, and likewise the first six names of the said commoners, which shall be drawn out after the said number of challenges respectively, or which, being drawn out, shall not be so challenged, shall be returned by the said judges to the lord high chancellor, who shall cause the names of the said peers and members of the House of Commons, together with those of the said three judges appointed as aforesaid, to be inserted in the special commission to be issued by virtue of this Act,

and the persons whose names are so inserted in the commission shall appear within ten days at the time and place to be appointed by the said three judges, and take the following oath before the lord high chancellor or lord keeper or lords commissioners of the great seal for the time being, or any one of them

Oath to be taken by the special commissioners I, A B, do swear, that I will well and truly try and determine, to the best of my judgement, the matter now to be brought before me, according to the evidence that shall be given

So help me GOD

And in case the challenges shall reduce the number of names so drawn out to less than four peers and six commoners respectively, then and in such case the said three judges shall certify the same to the respective houses of Parliament, who shall proceed with all convenient dispatch to appoint and ballot afresh for lists of members to be transmitted to the clerk of the crown or his deputy, and afterwards to be inserted in a new commission to be issued in the manner herein-before directed,

Their powers and the said special commissioners shall have full power and authority to hear and determine every such information, and to pronounce judgement thereon, according to the effect of the judgement of the common law upon convictions had and obtained according to the course of the

the attendance of witnesses any witness or witnesses as or on behalf of any person or persons prosecuted under the authority of this Act, may be issued out of the Crown Office of the Court of King's Bench,

Non attendance to be deemed a misdemeanor and in case any witness having due notice of such subpoena shall not attend in obedience to such subpoena his non-attendance shall be deemed a misdemeanor and subject him to be indicted,

Punishment for refusal to be examined and in case any such witness shall attend, but shall refuse to be examined, it shall and may be lawful for the said special commissioners to punish such witness by fine or imprisonment at their discretion

Commissioners may send for persons, papers and records, etc , 75 And * * * the said special commissioners shall have full power and authority by virtue of this Act to send for persons, papers and records, and to examine all witnesses who shall come or be brought before them upon oath, to be taken before them, and to cause the examinations of such witnesses, if they shall so think fit, to be reduced into writing, and to be signed and subscribed by such witnesses respectively,

and may commit prevaricators to the Fleet, etc and if any person brought before the said special commissioners shall prevaricate in his evidence or shall otherwise misbehave himself before the said special commissioners, the said special commissioners shall and may, if they shall so think fit, commit such person to the prison of the Fleet or the gaol of Newgate, there to remain for such time as the said special commissioners shall appoint, unless the said commissioners shall order them to be released sooner, which they are hereby empowered to do,

False evidence to be perjury and if any such witness shall wilfully give any false evidence before the said special commissioners, such witness shall be deemed guilty of wilful and corrupt perjury, and shall and may be indicted and punished for the same accordingly

The recognizance aforesaid shall bind all the goods and lands of the principal party at the time of entering into the same, etc 76 And * * * the recognizance to be entered into as aforesaid shall bind the property of all and singular the goods and chattels which were the goods and chattels of the principal party entering into such recognizance at the time of his entering into the same, or which he shall or may acquire at the time afterwards, and before he shall be discharged from such recognizance,

and shall also bind all estate and interest in all lands, tenements, and hereditaments, whereof the said principal party shall be seised or possessed, or whereof any person or persons in trust for the party so entering into such recognizance (at the time of his entering into the same or at any time afterwards and before he shall be discharged therefrom) shall be seised or possessed

oaths of skilful interpreters, administered according to the forms of their several religions, and shall by some sworn officer of such court be reduced into one or more writing or writings on parchment, in case any duplicate or duplicates should be required by or on behalf of any of the parties interested, and shall be sent to his Majesty in his Court of King's Bench closed up and under the seals of two or more of the judges of the said supreme court, and one or more of the judges of the said supreme court shall deliver the same to the agent or agents of the party or parties requiring the same, which said agent or agents (or in case of his or their death the person into whose hands the same shall come) shall deliver the same to one of the clerks in court of his Majesty's Court of King's Bench in the publick office, and make oath that he received the same from the hands of one or more of the judges of such court in India (or in what manner the same came into his hands), and that the same has not been opened or altered since he so received it (which said oath such clerk in court is hereby authorized and required to administer),

and such depositions, being duly taken and returned according to the true intent and meaning of this Act, shall be allowed and read before the said special commissioners, and shall be deemed as good and competent evidence as if such witness had been present and sworn and examined *vivâ voce* at any trial before the said special commissioners for such crimes or misdemeanors as aforesaid, any law or usage to the contrary notwithstanding,

and all parties concerned shall be entitled to take copies of such depositions at their own costs and charges,

and the chief justice of the said Court of King's Bench or one of the judges of the said court shall with all convenient speed after such deposition shall have been so received, together with the said information and plea, cause the same to be delivered over to the lord high chancellor or lord keeper or lords commissioners for the custody of the great seal of Great Britain, who shall thereupon issue the commission under the great seal in the manner by this Act directed

79 Provided always * * * *¹ that no information or plea, or deposition which by this Act is directed to be delivered over by the chief justice of the Court of King's Bench or one of the judges of the said court to the lord high chancellor or lord keeper or lords commissioners for the custody of the great seal of Great Britain, shall be so delivered over at any other time than during some one of the three usual and accustomed terms hereinafter mentioned, that is to say, Hilary term, Easter term or Michaelmas term

80. And in order to promote the ends of justice in ascertaining facts committed at so great a distance from this country by such evidence as the nature of the case will render practicable

¹ Enacting words repealed (U. K.), 51 & 52 Vict., c. 3 (S. L. R.)

Chief justice of the King's Bench, etc., to deliver the deposition, etc., to the lord chancellor

Delivery thereof to be during term

Writings received by the court of directors

Be it further enacted, that in all proceedings upon such information as aforesaid as well the depositions taken under such commission or commissions after the publication thereof, as also all writings which shall have been transmitted from the East Indies to the court of directors of the said united company by their officers or servants resident in the East Indies in the usual course of their correspondence with the said court of directors, and copies of all writings which shall have been transmitted by the said court of directors or by any committee thereof to the officers and servants of the said united company resident in the East Indies, and which in any manner relate to the subject matter of the charge to be contained in such information or to the defence to be made thereto, may be admitted by the said commissioners to be offered in evidence, and shall not be deemed inadmissible or incompetent unless upon objections arising from the nature of the contents of the said writings, subject nevertheless to be impeached in point of credibility by such observations and objections as the nature of such evidence or other circumstances may suggest, any rule of the common law to the contrary notwithstanding

from India, and copies of writings sent by the court to their servants there, relative to the charge in the information, etc, may be admitted by the Commissioners as evidence

81 And * * * *¹ the said Court of King's Bench shall have power and authority at the prayer of his Majesty's attorney general or other prosecutor or of the party against whom such information shall be exhibited, to order an examination de bene esse of witnesses upon interrogatories to be had and taken before an examiner to be by them appointed for that purpose, or by commission as the case shall require, and to cause the depositions of such witnesses to be published when the same shall appear to them to be proper and necessary, and which depositions shall be afterwards admitted to be read in evidence before the said commissioners, and shall be deemed good and sufficient evidence in the law as aforesaid, saving all just exceptions to be taken to such depositions when the same shall be offered to be read as aforesaid

Court of King's Bench, at the prayer of the prosecutor, etc, may order an examination de bene esse of witnesses upon interrogatories, etc

82 And * * * *¹ no Limitation of prosecution² prosecution in consequence of this Act shall be commenced unless within the space of three years after the return of the party prosecuted into Great Britain, or within three years after the delivery of the inventory or particular required by this Act

83. Provided always * * * *¹ that nothing herein contained shall extend or be construed to extend to prejudice or affect the rights or claims of the publick or the said united company respecting the said territorial acquisitions and revenues.

Not to affect the claims respecting the territorial acquisitions.

84 [*Rep as to U. K 50 & 51 Vict, c 59 (S. L. R.) Omitted as being spent.*]

85. And * * * * this Act shall, and shall be deemed Public Act and taken to be, a public Act.²

¹ Enacting words repealed (U. K.), 51 & 52 Vict., c. 3 (S. L. R.)
² S. 25 was repealed as to the U. K. by 50 & 51 Vict., c. 59 (S. L. R.)

THE EAST INDIA COMPANY ACT, 1786.

(26 Geo 3, c. 57.)

*An Act for the further regulation of the Trial of Persons accused of certain Offences committed in the East Indies, * * * *,¹ and for the more easy Proof, in certain cases, of Deeds and Writings executed in Great Britain or India*

Preamble
Recital of Act
24 Geo 3,
Sess 2, c 25

WHEREAS by an Act made in the twenty-fourth year of his Majesty's reign, intituled "An Act for the better regulation and management of the affairs of the East India Company and of the British possessions in India, and for establishing a Court of Judicature for the more speedy and effectual trial of persons accused of offences committed in the East Indies," divers provisions were made and enacted for the more effectually prosecuting and bringing to speedy and condign punishment the crime of extortion and other misdemeanors committed in the East Indies by British subjects in the service of his Majesty or of the said company, and particularly for constituting a special court of judicature for the trial of any information to be exhibited in his Majesty's Court of King's Bench against such offenders, under and by virtue of a commission to be awarded under the great seal of Great Britain, directed to four members of the House of Peers, six members of the House of Commons, and three of the judges of his Majesty's courts of law at Westminster, such members and judges to be selected and chosen in the manner prescribed by the said Act, and the said special commissioners to be so constituted by such commission, or any seven or more of them (of whom one of the said three judges was to be one), were by the said Act invested with full power and authority to hear and determine every such information, and to pronounce judgement thereon according to the effect of the judgement at common law upon convictions had and obtained according to the course of the common law for extortion and other misdemeanor

And whereas the selection of the members of the said respective Houses of Parliament for the purposes aforesaid may be rendered more easy and convenient

And whereas it is judged expedient that instead of seven not less than ten commissioners to be constituted by such commission as aforesaid should have authority to hear and determine any such information, and for that purpose that a greater number of members of each House of Parliament than is directed by the said Act should, together with the said three judges, be named and authorized as commissioners in and by such commission

¹ Portion relating to partial repeal of 24 Geo 3, Sess 2, c 25, omitted, it was repealed (U K) by 50 & 51 Vict, c 59 (S L R)

And whereas it is also expedient that for giving greater vigour and efficacy to the proceedings and judgements of the said special commissioners further regulations should be provided and established

May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that the members of the House of Lords by the said Act directed to be named by the said house for the purposes aforesaid shall be chosen, nominated and appointed in the manner following and not otherwise, any thing in the said recited Act contained to the contrary notwithstanding, (that is to say,) that within the first thirty sitting days of the House of Lords in every future session of Parliament the members of the said house or any of them may respectively deliver in at the table lists inclosed in covers sealed up, and having the words "East India Judicature" and their respective names or titles of honour by which they are generally known and distinguished indorsed on the outside thereof in their respective proper hand writing, every such list containing the names or titles of twenty-six peers,

Within the first thirty sitting days of each house in every session lists of twenty six names to be delivered in, sealed up, by the members of the upper house, from which shall be selected twenty-six peers,

and that on the first sitting day after the expiration of the said thirty days the clerk of the Parliaments or his deputy or assistant, or such other person as the said house shall direct, shall prepare and lay upon the table of the said house a list of the names or titles of the lords who shall within the said thirty days have delivered such lists,

and that on the next sitting day of the said house the said cover shall be opened by the clerk of the Parliaments or his deputy or assistant or such other person as the said house shall direct, by the order of the speaker of the said house, during the sitting of the said house, and all the lists which shall be so delivered shall be taken out of the said covers and put into a box, and the said lists shall be referred by the said house to a committee, who shall examine the same and within such time as the said house shall direct report to the house the name or title of every lord whose name or title shall appear in ten or more of such lists, and if the names or titles of the respective members so returned shall not amount to twenty-six members at the least, exclusively of such of the members so returned as shall be struck out of the said lists according to the directions of this Act, the members of the said house or any of them may on any of the next seven sitting days of the said house deliver in fresh lists in covers sealed up and indorsed in the manner herein-before directed, each of such lists containing a number of names or titles of members of the said house equal to that number by which the list returned by the committee shall, exclusively of the members struck out as aforesaid, fall short of twenty-six, and the said covers shall be opened and the lists disposed of, referred and proceeded upon after the end of

the said seven days in the manner herein-before directed in respect to the said former lists

and like lists of forty names to be delivered in by the members of the House of Commons, from which shall be selected forty members

2 And * * * *¹ that the members of the House of Commons to be named by that house for the purposes aforesaid shall be chosen, nominated and appointed in the manner following and not otherwise, any thing in the said recited Act contained to the contrary notwithstanding, (that is to say,) that within the first thirty sitting days of the said house in every future session of Parliament the members of the said house or any of them may respectively deliver in at the table lists inclosed in covers sealed up, and having the words "East India Judicature" and their respective names indorsed on the outside thereof in their respective proper hand writing, each of which lists shall contain the names of forty members of the said house,

and that on the first sitting day after the expiration of the said thirty days the clerk of the said house or his deputy or assistant, or such other person as the house shall direct, shall prepare and lay upon the table the names of all the members who shall have delivered such lists,

and that on the next sitting day of the said house the clerk of the said house, or any or either of such other persons as aforesaid, shall at the table during the sitting of the said house, by the order of the speaker, take the lists out of the said covers and put the said lists together into a box, and the said lists shall be immediately referred by the said house to a committee, who shall examine the same, and within such time as the house shall direct report to the house the name of every member whose name shall appear in twenty or more of the said lists, and if the names so returned shall not amount to forty at the least, exclusively of such of the said members therein named as shall be struck out of the said lists according to the directions of this Act, the members of the said house, or any of them may on any of the next seven sitting days of the said house, deliver in at the table of the said house fresh lists in covers sealed up and indorsed in the manner herein-before directed, each list containing a number of names of members of the said house equal to that number by which the list returned by the said committee shall, exclusively of such of the said names as shall be so struck out, fall short of forty, and the said lists shall be opened, disposed of, referred and proceeded upon after the end of the said seven days in the manner herein-before directed in respect to the said former lists,

and that the like order and course respectively as aforesaid shall be taken in each House of Parliament until the said numbers of twenty-six members of the House of Lords and forty members of the House of Commons shall have been returned to the said respective houses by the committees to whom the said lists shall be referred, exclusively of such of

¹ Enacting words repealed (U K), 51 & 52 Vict, c 3 (S L R)

the members so returned as shall be struck out of the said lists according to the directions of this Act

3 Provided always * * * *¹ that if any of the persons named in any of the lists returned by the said respective committees shall appear to hold any civil office of profit under the crown during his Majesty's pleasure or to be or to have been a commissioner for the affairs of India, or to be or to have been a director of the said company, or to hold or to have held any office or employment in the service of the said company in India the names of all and every such persons shall be struck out of the said lists by the order of the said respective Houses of Parliament

Persons holding offices under the crown during pleasure, etc., to be struck out of the lists

4 Provided also * * * *¹ that if the delivery of the said lists at the tables of the respective Houses of Parliament in the manner directed by this Act shall occasion any interruption of other business, or be found inconvenient in any other respect, it shall be lawful for both or either of the said houses, by their order or orders, to substitute such other mode for the delivery of such lists as the said houses shall respectively think fit, and that the said lists shall, after the making of any such order or orders, be delivered according to the tenor and directions thereof respectively, any thing herein-before contained to the contrary notwithstanding

Mode of delivering in lists to be altered by either house, if that proposed be found inconvenient

5 And * * * *¹ the names of the twenty-six peers and forty members of the House of Commons which shall have been so chosen by the said respective Houses of Parliament, or the names of the twenty-six peers and forty members of the House of Commons which (in case the said lists of both or either of the said houses shall happen to contain a greater number of members than as aforesaid respectively) shall have been drawn by lot according to the directions of the said former Act, or of such of them as shall personally appear at the time and place appointed in the manner by the said Act directed, shall be put into a box to be drawn by lot in the presence of the judges to be appointed according to the directions of the said recited Act and of the parties to the information to be tried or their counsel or agents,

The party accused may peremptorily challenge thirteen peers and twenty commoners contained in the lists, as the names are drawn by lot in the presence of the judges, according to the recited Act

and the person or persons against whom the said information shall have been exhibited shall have the liberty, as the said names are drawn out, to make peremptory challenges, to the number of thirteen of the peers and twenty of the members of the House of Commons whose names shall have been put into the said box,

and his Majesty's attorney general or other prosecutor, as the case may happen, and also the party or parties against whom such information shall have been exhibited as aforesaid, shall respectively have power to make challenges to any of the names which shall be so drawn out and to assign for cause of challenge any such matter as in the opinion of the

Prosecutor and accused may challenge any of the names, assigning reasons

¹ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

three judges or the majority of them shall appear in their discretion sufficient to set aside the person or persons so challenged, for the purpose of obtaining equal justice,

The first five peers and the first seven commoners whose names shall be drawn out and not challenged, to be, with the three judges, appointed special commissioners

and the first five names of the said peers, and likewise the first seven names of the said members of the House of Commons, which being drawn out shall not be so challenged, or against whom no challenge shall have been allowed, shall be returned by the said judges to the lord high chancellor or lord keeper or lords commissioners for the custody of the great seal of Great Britain, who shall cause the said five peers and the said seven members of the House of Commons, by their respective proper names or titles of honour together with the names of the said three judges, to be inserted in the special commission to be issued by virtue of the said recited Act and of this present Act,

and the persons who shall be so named and authorized in and by the said commission shall appear within ten days at the time and place to be appointed by the said three judges, and shall then and there take the following oath before the lord high chancellor or lord keeper or lords commissioners of the great seal of Great Britain for the time being, or any one of them

Commissioner's oath

I, A B, do swear, that as a commissioner appointed by his Majesty's commission for the trial of the information now at issue against C D, I will diligently attend such trial and that I will hear and determine the same to the best of my judgement, according to the evidence which shall be given

So help me GOD

If number be reduced by challenges to less than five peers and seven commoners, new lists to be made out

6 And * * * *¹ if by reason of the challenges as aforesaid the number of names so drawn out as aforesaid shall be reduced to less than five peers and seven members of the House of Commons respectively, then and in such case the said three judges shall forthwith certify the same to the speakers of the respective Houses of Parliament, who shall lay the same before the said houses respectively, and the said houses shall respectively proceed, within any of the next seven days on which the said houses shall respectively sit for the dispatch of business, to choose, nominate and appoint twenty-six members of the House of Lords and forty members of the House of Commons after the manner and course aforesaid, the lists of which said respective members so chosen and appointed shall be transmitted to the clerk of the crown in his Majesty's High Court of Chancery or his deputy, and be inserted in a new commission to be issued in the manner herein-before and in the said former Act directed

Provided always, that no day on which the House of Commons shall have adjourned for want of the presence of a sufficient number of members to execute the provisions of the several Acts passed in the tenth and

¹ Printing words repealed (U K), 51 & 52 Vict, c 3 (S L R)

eleventh years of the reign of his present Majesty, to regulate the trials of controverted elections or returns of members to serve in Parliament, shall be accounted one of the sitting days of the said house for any of the purposes of this Act

7. And * * * *^{*1} the said special commissioners to be appointed as aforesaid shall have full power and authority to hear and determine every such information, and to pronounce judgement thereon according to the effect of the judgement of the common law upon convictions had and obtained according to the course of the common law for extortion or other misdemeanor, and also to declare the party so convicted incapable of serving the King's Majesty, his heirs or successors, or the said united company, in any capacity whatever, Power of the commissioners

and such judgement so pronounced by the said special commissioners as aforesaid, upon such information, shall be good and effectual, and shall be conclusive to all intents and purposes,

and no certiorari shall be granted for removing the proceedings of the said special commissioners on such information into any court whatever, Proceedings not removable by certiorari

and the proceedings of the said special commissioners shall not be

should be reduced under ten, etc., a new commission to be made out

Act directed, before the said commission shall have been fully executed, so that there shall not be a sufficient number of commissioners to proceed in the due execution of such commission, according to the true intent and meaning of this Act, or if all the said three judges shall happen to die or be excused from attending in the manner by this Act directed whilst the said commission shall be depending, then and in either of such cases and from thenceforth the said commission and the force and effect thereof shall cease, and a new commission shall be awarded for hearing the matter of such information for which such former commission was issued, and the trial of such information shall begin de novo, save only and except with respect to the examinations or depositions of any witnesses (if any) which shall have been taken in writing under the said former commission, which examinations or depositions shall and may be received and admitted as evidence under such new commission

Commissioners to attend during the whole trial, unless absent by leave

11 And * * * *¹ the said special commissioners shall severally attend in court during the whole trial for which they shall be appointed as aforesaid, and none of the said commissioners shall in anywise absent himself from the same (except as hereinafter is provided), and the said court shall at no time proceed in the said trial until all the said special commissioners not having obtained such leave of absence or not having been excused as hereinafter is provided shall be met and assembled,

If all do not meet, the majority present may adjourn.

and if the said special commissioners (except as aforesaid) shall not all meet and assemble within the space of one hour after the time to which they shall have adjourned, such of them as shall be then present, or the major part of them, shall make an order for a further adjournment of the trial, in which order the cause of such further adjournment shall be expressed, and a copy of such order, signed by the registrar to the said commissioners, shall be served upon or left at the usual or last place or places of abode of the said absent commissioner or commissioners respectively, and at such further adjourned meeting the cause of his or their absence shall be inquired into by the special commissioners who shall be then present before the said commissioners shall proceed to any other business,

Cause of absence to be inquired into

and if it shall not be made to appear to the satisfaction of the said commissioners, by facts specially stated and verified before them upon oath (or in the case of such facts being verified by a peer of the realm, then upon his honour), that such absent commissioner or commissioners was or were by sudden accident or by necessity prevented from attending at the said former sitting, it shall and may be lawful for the special commissioners then present or the major part of them, to pass such censure upon such commissioner or commissioners who shall have been

Absentees may be cen-

¹ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

so absent as they shall think fit, and also to impose upon such commissioner or commissioners respectively for such neglect of duty, or upon any commissioner or commissioners who shall depart from the said court during the sitting and before an adjournment thereof, such fine or fines as the said commissioners or the greater number of them then present shall think fit, so that no such fine shall exceed the sum of five hundred pounds, which fine or fines shall be forthwith estreated by one or more of the said three judges into the Court of Exchequer, and the like process shall be awarded by the said Court of Exchequer for levying the said fine or fines for his Majesty's use as is usually awarded for the levying of other fines estreated into the said Court of Exchequer,

sured or fined,
and disabled
from acting

How fines
are to be
levied

and the said special commissioners shall also have full power and authority to order or declare that any commissioner or commissioners who shall be so censured or on whom any such fine or fines shall be imposed shall be disabled from acting in the further execution of such commission

12 Provided always * * * * that it shall and may be lawful for the said commissioners or the greater number of them to grant leave of absence to any of the said commissioners upon proof to their satisfaction of sickness or other urgent occasion,

Leave of
absence may
be granted to
commission-
ers, who,
however, are
disqualified

and such of the said commissioners who shall obtain leave of absence as aforesaid, and shall accordingly be absent during any part of such trial, shall be no longer capable of acting under such commission any thing contained in the said former A

Commission-
ers may ap-
point clerks,
etc, who
may be
removed, etc

14 And * * * *^{*1} it shall and may be lawful to and for the said special commissioners to constitute and appoint such clerks, tipstuffs, messengers and other officers to attend upon them in the execution of their said commission, and to do and perform all such matters and things as shall be ordered or given to them in charge by the said commissioners, as the said commissioners shall think fit,

and such several clerks and other officers shall be diligently attendant upon and subject and obedient to the said commissioners, and may be suspended, removed or discharged, or be punished by fine or fines to be imposed by the said commissioners for any neglect of duty or disobedience, at the discretion of the said commissioners, which fines shall be estreated into his Majesty's Court of Exchequer by one or more of the said three judges, and shall and may be levied and recovered for his Majesty's use by the process of the said court,

How clerks,
etc, are to be
paid

and all and every of such clerks and other officers shall be paid by the parties informant or informants and defendant or defendants named in such information the same or the like fees and allowances as the respective officers attendant upon his Majesty's Court of King's Bench upon trials of informations for misdemeanors prosecuted in the said court are entitled to receive from the parties thereto respectively, according to the stations and duties of such officers respectively

Court of
King's Bench
may issue
out warrants
for appre-
hending per-
sons accused
of extortion,
etc, in the
East Indies

15 And * * * *^{*1} whenever an information shall be exhibited in the said Court of King's Bench against any person or persons for the crime of extortion or other misdemeanor committed in the East Indies, in every such case, upon a certificate from the coroner and attorney of our lord the King (commonly called the clerk of the crown in the Court of King's Bench or the master of the crown office in the said court), or any or either of his sworn clerks in the said office, that such information hath been filed (which information, in case the same shall be filed when the Court of King's Bench shall not be sitting, shall be considered as filed on the last day of the preceding term), it shall and may be lawful to and for the lord chief justice or any of the other judges of the said court, at the instance of such prosecutor or prosecutors, to issue his warrant under his hand and seal directed to all sheriffs, mayors, bailiffs, constables and other peace officers, and to such other person or persons as shall be named for that purpose by such prosecutor or prosecutors, for apprehending and attaching the party or parties defendant or defendants to such information,

and if such party or parties shall escape or go into, reside or be in any place within that part of Great Britain called Scotland, it shall and may be lawful for the sheriff or steward depute or substitute or any justice of the peace of the county or place into which such party or parties shall escape or go or in which he or they shall reside or be to

indorse his name on the said warrant, which warrant so indorsed shall be a sufficient authority to all persons to whom such warrant was originally directed, and also to all sheriffs officers, stewards officers, constables and other peace officers of the said county or place by the sheriff, steward depute or substitute, or justice of the peace whereof such warrant shall be so indorsed, to execute the said warrant in the same county or place by apprehending the party or parties against whom such warrant shall have been granted and to convey and bring such party or parties in safe custody before the said Court of King's Bench or before the lord chief justice or any of the judges of the said court to be further dealt with according to the directions of the said former Act and this present Act

16 And * * * * it shall and may be lawful to and for the party or parties against whom any such information shall be exhibited as aforesaid (not being attached) to surrender himself or themselves in the said Court of King's Bench at any time during the sitting of the said court to be dealt with according to the directions of the said former Act and this present Act or if the said court shall not be sitting, unto the said lord chief justice or any other of the judges of the said court, Parties informed against to be committed or to find bail

and * * * * when and so often as any such party or parties shall surrender himself or themselves out of court as aforesaid, or shall during any vacation or when the said court shall not be sitting be attached and brought before the said lord chief justice or other judge under any warrant or attachment issued by virtue of the said former Act or this present Act, the said lord chief justice or other judge shall and may order such party or parties to stand committed to the prison of the Marshalsea or to the Tower of London or to the gaol of Newgate, at the discretion of the said lord chief justice or other judge, there to be detained until he or they shall be delivered by due course of law, or until he or they, together with two sufficient sureties, shall have entered into a recognizance unto the King's Majesty, his heirs and successors, in such sum of money and with such condition for his appearance and for submitting to the judgement to be pronounced in and upon such information as the said lord chief justice or other judge shall in his discretion order and direct

Provided always that it shall and may be lawful for the said commissioners to order any person in custody under the provisions of this Act to be from time to time brought up and remanded in such manner as to the said commissioners shall seem meet

17. And * * * * when and so often as any party or parties against whom any such information as aforesaid shall be exhibited shall

¹ Enacting words repealed (U K), 51 & 52 Vict., c. 36, s. 32

² The word "that" was repealed (U K), *ibid*

not be attached or shall not have surrendered as aforesaid, and proof shall be made by any affidavit or affidavits to the satisfaction of the said Court of King's Bench that such party or parties is or are beyond the seas, or that upon enquiry at his or their usual place or places of abode or last known place or places of residence in Great Britain he or they could not be found, and that there is just ground to believe that such party or parties is or are gone, or doth or do continue out of the realm, or doth or do otherwise abscond, to avoid being attached to answer the matters charged in and by such information, then and in such case the said court shall and may make a rule or order directing and appointing such party or parties to surrender himself or themselves in the said court or to the lord chief justice or one of the other judges of the said court, at a certain day in and by such rule or order to be limited and expressed at the discretion of the said court,

and a copy of such rule or order shall within twenty days after the making thereof be inserted three several times in the London Gazette, and another copy of such rule or order shall within the time aforesaid be affixed in some conspicuous and publick place in the India House,

and if the said party or parties shall not surrender himself or themselves respectively according to the tenor of such rule or order within the time therein to be limited for that purpose, or within such further time as the said court shall appoint or direct (which the said court is hereby empowered to do, on application being made on the behalf of such party or parties, if the said court shall see cause), then, on proof being made of the publication of such rule or order in manner aforesaid, it shall and may be lawful for his Majesty's attorney general or other prosecutor, by rule and leave of the said court (which rule and leave the said court is hereby empowered to grant), to cause an appearance and the plea of not guilty to be entered for such party or parties charged by the said information, and the said information shall thereupon proceed as if the party or parties had appeared and pleaded not guilty thereto

Appearance
to be entered
for party not
appearing,
etc

Notice of trial
to be given
where ac-
cused does
not appear

18 Provided always * * * *¹ that in all cases where the plea of not guilty shall be entered for the party or parties defendant or defendants to any information by the prosecutor or prosecutors thereof, by virtue and according to the directions of this Act, it shall be sufficient, in order to the hearing and determining of such information, for such prosecutor or prosecutors to give fourteen days notice of the day appointed for the trial thereof by advertisement in the London Gazette, any law, usage or practice to the contrary notwithstanding

Judgement to
be pro-
nounced by
the commis-
sioners,
though the

19 And * * * *¹ if any party or parties charged by any such information as aforesaid shall make default in his or their personal appearance at the pronouncing of judgement in the matter of such in-

¹ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

formation by and before the said special commissioners, it nevertheless shall and may be lawful for the said commissioners to pronounce judgement upon such information in the same manner as if the said party or parties was or were personally present, and every such judgement shall be as valid, effectual and conclusive to all intents and purposes whatever as if the said party or parties had been personally present at the pronouncing thereof, any law or usage to the contrary notwithstanding

20. And * * * *¹ whenever the party or parties charged by any such information shall personally appear before the said special commissioners on the hearing or trial thereof, it shall and may be lawful to and for the said special commissioners at any time during the course of such trial to order such party or parties to stand committed to the prison of the Marshalsea or to the Tower of London or to the gaol of Newgate, at the discretion of the said special commissioners, there to be detained until judgement shall be pronounced in the matter of the said information, unless he or they shall be previously delivered or discharged by the rule or order of the said commissioners

parties accused do not appear

Parties accused may be committed during trial

21 And * * * *¹ if any person or persons shall be guilty of any contempt or disturbance in the court of the said commissioners during the sitting of the court, it shall and may be lawful to and for the said commissioners to order such person or persons to be taken into custody by any officer or officers to be appointed by the said commissioners to attend the said court, and to stand committed to the prison of the Marshalsea or the gaol of Newgate, at their discretion, to be there kept for such time as the said commissioners shall order and direct

Disturbers of the court may also be committed.

reversed or avoided, for or by reason or means of any error, defect or want of form in any such judgement or in the information whereon the same shall be given or pronounced, or in the award of any process thereon, or in the record of the issue for the trial thereof, any law, statute or usage to the contrary notwithstanding

This or the recited Act not to deprive persons of any right they are entitled to by law, etc ,

23 Provided always * * * *¹ that nothing in the said recited Act or in this present Act contained shall extend or be construed to extend to deprive the prosecutor or prosecutors of any such information as aforesaid, or the party or parties defendant or defendants thereto, of any right, liberty, benefit or advantage to which, by the law of the land or the rules of practice of the Court of King's Bench, such prosecutor or prosecutors, defendant or defendants, is or are, or would, could or might have been entitled upon any other information of a like nature depending in the said Court of King's Bench before issue in fact joined therein,

nor to restrict powers of Court of King's Bench

nor to prevent or restrict the said Court of King's Bench from exercising any such power or authority as would, could or might have been legally exercised by the said Court of King's Bench in the matter of any such information before issue in fact joined therein, if the said former Act or this present Act had not been made, any thing in the said former Act or this present Act contained to the contrary notwithstanding

Mode of proceeding where demurrers are entered and over ruled.

24 Provided also * * * *¹ that if the party or parties charged by any such information as aforesaid shall enter a demurrer to such information and such demurrer shall be over-ruled by the said Court of King's Bench such party or parties shall within eight days next after the said court shall have given judgement on such demurrer, unless a writ of error shall be brought thereon, and then within eight days next after such judgement shall be affirmed or such writ of error shall be nonpros'd, enter the plea of not guilty to such information, or in default thereof the said plea of not guilty shall and may be entered for and in the name or names of such party or parties by his Majesty's attorney general or other prosecutor, and the said information shall proceed in the like manner as if no demurrer had been entered thereto, any law or the usage or practice of the said court to the contrary notwithstanding

Informations may at option of prosecutor be tried in the Court of King's Bench

25 Provided also * * * *¹ that if his Majesty's attorney general or other prosecutor or prosecutors of any such information shall be desirous of having the same proceeded in, tried and determined in the said Court of King's Bench and shall move the said court for that purpose, then and in every such case the said court shall grant a rule or order for retaining such information in the said court, and the said information shall be accordingly retained by the said Court of King's Bench, and shall be heard, tried, adjudged and determined by the said

¹ Enacting words repealed (U K.), 51 & 52 Vict, c. 3 (S L. R.)

Court of King's Bench in such and the same manner to all intents and purposes as an information of the like nature would, could or might have been proceeded in, heard, tried and determined in and by the said court in case the said former Act or this present Act had not been made, any thing in the said former Act or this present Act contained to the contrary notwithstanding

26 And * * * *¹ whenever the party or parties against whom any such information shall have been exhibited as aforesaid shall be adjudged to pay a fine or fines to his Majesty, his heirs or successors, and also whenever any recognizance or recognizances entered into under the said former Act or this present Act shall become forfeited, the said Court of King's Bench, or in case the said court shall not be then sitting, the lord chief justice of the same court, shall and may forthwith, at the instance of his Majesty's attorney general or other prosecutor, deliver to the lord chief baron or any other of the barons of the Court of Exchequer an estreat of the fine or fines, recognizance or recognizances, so adjudged or become forfeited respectively as aforesaid,

How fines,
etc., are to be
recovered
in England,

and the said lord chief baron or other of the said barons shall thereupon at the requisition of the said attorney general or other prosecutor, authorise and direct the proper officer of the same court to award, and such officer shall accordingly forthwith award, under the seal of the same court, one or more special writ or writs of extendi facias and capias or other special process against the said party or parties adjudged to pay such fine or fines, or the principal or principals and sureties in such recognizance or recognizances respectively, and their lands, tenements and hereditaments, goods, chattels and effects, directed into such county or counties, cities, places or liberties, to the proper sheriffs or other officers of the same respectively, for the due execution thereof, as the said attorney general or other prosecutor shall desire or require in that behalf,

and if such party or parties or such principal or principals and sureties in Scotland or any of them shall have or be seised or possessed of or entitled to any lands, tenements or hereditaments, goods, chattels, estate or effects situate lying or being within that part of Great Britain called Scotland, or shall be resident in that part of the said United Kingdom, then and in either of such cases his Majesty's Court of Exchequer in Scotland, or when the said court shall not be sitting, the lord chief baron or any other of the barons of the said Court of Exchequer in Scotland, upon a copy or transcript of the estreat of such fine or fines, recognizance or recognizances, being sent or transmitted into the same court or delivered to the said lord chief baron or any other of the barons of the same court, from and under the seal of the Court of Exchequer in England or under the

¹ Enacting words repealed (U K), 51 & 52 Vict, c. 3 (S L R)

hand and seal of the lord chief baron or any other of the barons thereof, (and which copy or transcript the said Court of Exchequer in England, or when the said court shall not be sitting, the lord chief baron or any other of the barons of the same court, is and are hereby required, at the instance of his Majesty's attorney general or other prosecutor, to send and transmit accordingly,) shall and may forthwith, at the instance of the said attorney general or other prosecutor, carry on such proceedings and award such and the like process and processes as is and are competent by the law of that part of Great Britain called Scotland for recovery of debts due to the crown

Mode of
recovering
fines from
property
in the East
Indies, when
the effects in
Britain are
insufficient.

27. And * * * *¹ if it shall at any time be made to appear to the satisfaction of the said Court of Exchequer in England, at the instance of his Majesty's attorney general or other prosecutor, by motion in the said court on his or their behalf, that such party or parties, principal or principals or sureties as aforesaid or any of them have no lands, tenements or other estate or effects in Great Britain, or that the same (if any) are not sufficient to answer the sum or sums forfeited by such recognizance or recognizances or due for such fine or fines respectively, and that such party or parties, principal or principals or sureties or any of them shall have or be seised or possessed of or entitled to any lands, tenements or hereditaments, goods, chattels, debts, estate or effects within any of the British possessions in the East Indies respectively (the said sum or sums, fine or fines, not being paid and satisfied), then and in every such case the said Court of Exchequer shall and may by rule or order of the said court cause one or more transcript or transcripts of the estreats of the said recognizance or recognizances, fine or fines, to be sealed with the seal of the court or to be otherwise attested as the said court shall direct, and the same so sealed or attested shall be closed up under the seals of any two of the barons of the said court, directed to the Supreme Court of Judicature in Bengal and to the mayor's courts at Madras and Bombay, or to any or either of the said courts, as the case shall or may require, and the same shall be delivered by the said barons or one of them to such agent or agents as the prosecutor or prosecutors shall nominate or appoint for that purpose, which agent or agents (or in the case of his or their death the person into whose hands the same shall come) shall deliver such transcript or transcripts to one of the judges of the said Supreme Court or mayor's courts respectively, as the case may be or require, and make oath that he or they did receive the same from the hands of one of the said barons (or in what other manner the same came into his or their hands), and that the same hath not or have not been opened or altered since he or they so respectively received the same (which oath any of the said judges of any of the said courts in India are hereby authorised and required to administer), and thereupon such transcript or

¹ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

transcripts shall be filed and recorded in such of the said courts in India to which the same shall be so directed, as the case may require,

and upon motion to be made in such courts or court for that purpose, for and on the behalf of such prosecutor or prosecutors, the like process and proceedings shall and may from time to time be awarded and had by and in the said Supreme Court of Judicature and the said mayor's courts at Madras and Bombay respectively, or any or either of them, against the lands, tenements or hereditaments, goods, chattels, debts, estate and effects of the said party or parties, principal or principals and sureties within the limits of the jurisdictions of such respective courts in the East Indies as might or could have been awarded or had in the said Court of Exchequer in England against the lands, tenements, hereditaments, goods, chattels, debts, estates and effects of the same party or parties, principal or principals or sureties in England, and the same shall be valid and effectual, any law, usage or custom to the contrary notwithstanding

28. And whereas it is by the said recited Act enacted, that in all cases of informations laid or exhibited by virtue of the said Act in the Court of King's Bench for misdemeanors or offences committed in India, it shall be lawful for the said court to award a writ or writs of mandamus to the chief justice and judges of the Supreme Court of Fort William, or the judges of the mayor's court of any of the British settlements in India, as the case may require, who are thereby respectively authorized and required accordingly, to hold a court for the examination of witnesses and receiving other proofs concerning the matters charged in such informations respectively, and that such examination shall be then and there openly taken and reduced into writing in manner therein mentioned and sent to his Majesty in his Court of King's Bench, closed up and under the seals of two or more of the judges of the said Supreme Court, and that one or more of the judges of the said Supreme Court shall deliver the same to the agent or agents of the party or parties requiring the same, which said agent or agents (or in case of his or their death the person into whose hands the same shall come) shall deliver the same to one of the clerks in court of his Majesty's Court of King's Bench in the publick office, and make oath that he received the same from the hands of one or more of the Judges of such court in India (or in what manner the same came into his hands), and that the same hath not been opened or altered since he so received the same.

Recital of
Act 24 Geo. 3.
Sess. 2, c. 25,
s. 78

And whereas a doubt may arise whether such examinations as may be taken by the judges of the mayor's court in any of the British settlements in India by force and virtue of the said Act may be lawfully sent closed up under the seals of the same judges, and whether any one or more of the same judges is or are empowered to deliver the same to the agent or agents of the party requiring the same

Examinations
taken in the
mayor's
courts in
India to be
sealed up and
given to the
agents of the
parties, to be
delivered to
the clerks
of the King's
Bench

Be it therefore enacted, that every examination which shall or may be had or taken by the judges of the mayor's court of any of the British settlements in India by force and virtue of the said Act (being reduced into writing as in the said Act is directed or mentioned) shall be sent to his Majesty in his Court of King's Bench closed up and under the seals of two or more of the judges of the mayor's court of any of the British settlements in India, and one or more of the judges of the same court shall deliver the same to the agent or agents of the party or parties requiring the same, which said agent or agents (or in case of his or their death the person into whose hands the same shall come) shall deliver the same to one of the clerks of his Majesty's Court of King's Bench, in the publick office, and make such or the like oath as is in and by the said Act directed and prescribed, any thing in the said Act contained to the contrary notwithstanding

29 and 30 [*Rep 55 & 56 Vict, c 19 (S L R)*], 29, rep also as to *B I* by *XI of 1872, s 2 and sch 1*]

31 [*Rep 35 & 36 Vict, c 63 (S L R)*]

32 to 35 [*Rep 33 Geo 3, c 52, s 146*]

36 and 37. [*Rep 35 & 36 Vict, c 63 (S L R)*]

Bonds exe-
cuted in the
East Indies
shall be evi-
dence in
Britain, and
contrariwise,
on proof of
the hand
writing of
the parties.

38 ¹ And whereas great difficulties, expense and delay often arise in giving proof in Great Britain of the execution of bonds and other deeds and writings executed and witnessed by persons resident in the East Indies

* * * *

For remedy thereof, be it enacted, that whenever any bond or other deed, or writing executed in the East Indies and attested by any person or persons resident there, shall be offered in evidence in any of the courts of justice in Great Britain, it shall be sufficient to prove by one or more credible witness or witnesses that the name or names subscribed to such bond, deed or writing purporting to be of the hand or hands writing of the obligor or obligors to such bond, or of the party or parties to such deed or writing, is or are of the proper hand writing or hands writing of such obligor or obligors, party or parties respectively, and that the name or names set and subscribed of the witness or witnesses attesting the execution of the same respectively is or are of the proper hand or hands writing of the witness or witnesses so attesting the same, and that such witness or witnesses is or are resident in the East Indies, *

* * * *

¹ S 38, so far as it relates to Courts of Justice in the East Indies, has been repealed by Act I of 1872, s 2 and sch

² Words repealed as to British India, by 55 & 56 Vict, c 19 (S L R), have been omitted

and such proofs shall be deemed and taken to be as valid and sufficient evidence of the due execution of such bonds and other deeds and writings as if the witness or witnesses thereto was or were dead

39 [*Rep 55 & 56 Vict , c 19 (S L R)*]

THE EAST INDIA COMPANY ACT, 1793 ¹

(33 Geo. 3, c 52)

An Act for continuing in the East India Company for a further term the possession of the British Territories in India, together with their exclusive Trade, under certain Limitations, for establishing further Regulations for the Government of the said Territories and the better Administration of Justice within the same, for appropriating to certain Uses the Revenues and Profits of the said Company, and for making Provision for the good Order and Government of the Towns of Calcutta, Madras and Bombay

[11th June, 1793]

[*Preamble Rep (U K) 50 & 51, Vict , c 59 (S L R)*]

1 to 18 [*Rep as to U K 50 & 51 Vict , c 59 (S L R) Omitted as being spent and inapplicable to India*]

19 Provided also, and be it further enacted, that if the said board of commissioners shall be of opinion that the subject matter of any of their deliberations concerning the levying war or making peace, or treating or negotiating with any of the native princes or states in India, intended to be communicated in orders to any of the Governments or Presidencies in India, shall be of a nature to require secrecy, it shall and may be lawful for the said board to send their orders and instructions to the secret committee of the said court of directors, to be appointed as is by this Act directed, who shall thereupon, without disclosing the same, transmit their orders and dispatches, according to the tenor of the said orders and instructions of the said board, to the respective Governments and Presidencies in India, and that the said Governments and Presidencies shall be bound to pay a faithful obedience thereto in like manner as if

Board may send orders to the secret committee of directors, who shall transmit the same to India

¹ So much of this Act as requires seniority as a condition or qualification for the appointment of civil servants to offices, places or employments was repealed by 24 & 25 Vict , c. 54, s 7 Its provisions have been modified by Act XI of 1876, s 66

such orders and instructions had been sent to them by the said court of directors ¹

Directors to
appoint a
secret com-
mittee, who
shall take the
following
oath

20. And * * * *² that the said court of directors shall from time to time appoint a secret committee, to consist of any number not exceeding three of the said directors, for the particular purposes in this Act specified, which said directors so appointed shall, before they or any of them shall act in the execution of the powers and trusts hereby reposed in them, take an oath of the tenor following, (that is to say,)

* * * * *

Which said oath shall and may be administered by the several and respective members of the said secret committee to each other, and being so by them taken and subscribed, the same shall be recorded by the secretary of the said court of directors for the time being amongst the acts of the said court

21 [*Rep as to U K 50 & 51 Vict, c 59 (S L R)* Omitted as being inapplicable to India]

Presidencies
in India may
send dis-
patches to
the secret
committee,
who shall
deliver them
to the board

22 Provided also * * * *² that when any of the Governments or Presidencies in India shall be of opinion that any of their dispatches to Great Britain concerning the government of the said territories and acquisitions, or the levying war or making peace, or negotiations or treaties with any of the native princes or states of India, shall be of a nature to require the same to be kept secret, it shall be lawful for the said Governments or Presidencies respectively to address their dispatches requiring such secrecy under cover, sealed with their seals, unto the said secret committee of directors of the said company for the inspection of such committee, and that immediately upon the arrival of such dispatches so addressed the said secret committee of directors shall deliver the same or copies thereof to the said board

23. [*Rep as to U K 50 & 51 Vict, c 59 (S L R)* Omitted as being inapplicable to India]

Governments
of the presi-
dencies vested
in the govern-
ors and three
counsellors
respectively

24. And be it further enacted, that the whole civil and military government of the presidency of Fort William in Bengal, and also the ordering, management and government of all the territorial acquisitions and revenues in the kingdoms or provinces of Bengal, Behar and Orissa, shall be and are hereby vested in a governor general and three counsellors of and for the said presidency, subject to such rules, regulations and restrictions as are made, provided or established in that behalf in this Act or in any other Act or Acts in force, and not by this Act repealed or altered,

¹ But see 21 & 22 Vict, c. 106, s. 27

² Enacting words repealed (U K), 51 & 52 Vict, c. 3 (S L R)

³ Another oath was substituted by 53 Geo 3, c. 155, s. 74

and that the whole civil * *¹ government of the presidency of Fort Saint George on the coast of Coromandel, and the ordering, management and government of all the territorial acquisitions and revenues on the said coast, and also so much and such parts of the territories and possessions on the coast of Orissa, with the revenues of the same, as have been and now are under the administration of the government or presidency of Fort Saint George, shall be and are hereby vested in a governor and three counsellors of and for the said presidency of Fort Saint George, subject to such rules, regulations and restrictions as aforesaid,

and that the whole civil * *² government of the presidency and island of Bombay on the coast of Malabar, and the ordering, management and government of all the territorial acquisitions and revenues on the said coast of Malabar, shall be and are hereby vested in a governor and three counsellors of and for the said presidency and island of Bombay, subject as aforesaid,

and the said governors and councils of the said presidencies of Fort Saint George and Bombay respectively, being also subject to the superintendence and control of the said governor general in council in manner by this Act provided or directed in that behalf any Act or Acts to the contrary notwithstanding

any of the offices aforesaid for supplying any vacancy or vacancies therein, when the same shall happen by the death or resignation of the person or persons holding the same office or offices respectively, or on his or their departure from India, or on any event or contingency expressed in any such provisional appointment or appointments to the same respectively, and such appointments again to revoke, but that no person so appointed to succeed provisionally to any of the said offices shall be entitled to any authority, salary or emolument appertaining thereto, until he shall be in the actual possession of such office, any Act or statute to the contrary notwithstanding

28. [*Rep as to U K 50 & 51 Vict, c 59 (S L R), rep also as to B I by XII of 1873, s 1 and sch*]

How vacancies are to be supplied when no successors are on the spot, etc

29 And * * * *^{*1} that if any vacancy shall happen in the office of governor general of Fort William or of governor of Fort Saint George or Bombay respectively, when no provisional or other successor shall be upon the spot to supply such vacancy, then and in every such case the counsellor of the presidency wherein such vacancy shall happen, next in rank to the said governor general or governor respectively, shall hold and execute the said office of governor general or governor until a successor shall arrive, or until some other person on the spot shall be duly appointed thereto,

and if the council board shall happen during that interval to become reduced to one only member besides the acting governor general or governor, then and in such case the person so acting as governor general or governor shall be and is hereby empowered to call to the council board such one of the senior merchants of the said company at such presidency where the vacancy shall occur as he shall think fit to be a temporary member of the said board, and that the person so called shall accordingly sit and act as a member of the said council and shall have the same powers in all other respects as are given to persons appointed to the council board by the said court of directors, until the arrival of a successor or other appointment made to the office of governor general or governor respectively,

and that every such acting governor general, governor and occasional counsellor shall during the time of their continuing to act as such respectively be entitled to receive the several emoluments and advantages appertaining to the said offices by them respectively supplied, such acting governor general and governor foregoing their salary and allowances of counsellor for the same period

30 Provided always * * * *^{*1} that if at the time of any vacancy happening in the office of governor general or of a governor of any of the said presidencies no eventual successor appointed under the

¹ Enacting words repealed (U K), 51 & 52 Vict, c 3 (S L R)

authority of this Act shall be present upon the spot, any commander-in-chief, although he shall be then a member of the council of the presidency where such vacancy shall occur, shall not succeed to the temporary government of such presidency unless such commander-in-chief shall have been provisionally appointed to supply the same, but that the vacancy shall be supplied by the counsellor next in rank at the council board to such commander-in-chief, any thing herein contained to the contrary notwithstanding ¹

31. And * * * *² that if any vacancy shall happen of the office of a counsellor at either of the said presidencies when no person provisionally or otherwise appointed to succeed thereto shall be then resident on the spot, then and on every such occasion such vacancy shall be supplied, by and at the nomination or appointment of the governor general in council of Fort William or the governor in council of Fort Saint George or Bombay respectively, from amongst the senior merchants in the said company's service in India,

and that the person or persons so nominated shall execute the said office and shall have the same powers in all respects as are given to persons appointed to the council board by the said court of directors, until a successor or successors shall arrive duly appointed by the said court of directors, and shall have and be entitled to the salary and other emoluments and advantages appertaining to the said office or offices during his or their continuance therein respectively

32 * * * *³ and that when any commander-in-chief shall be appointed a member of any of the said councils, such commander shall have rank and precedence at the council board next to the * * * *³ governor of the same presidency,

But no commander-in-chief shall be entitled to any salary or emolument in respect of his being a member of any of the said councils unless the same shall be specially granted by the court of directors of the said company

33. Provided always * * * *² that when the commander-in-chief of all the forces in India (not being likewise governor general), shall happen to be resident at either of the presidencies of Fort Saint George or Bombay, the said commander-in-chief shall from the time of his arrival and during his continuance at such presidency be a member of the council of such presidency, and during that period the provincial commander-in-chief of the forces of the same presidency, if he shall be a member of the council thereof, shall and may continue to sit and deliberate, but shall not have any voice at the council board

¹ This section is for the most part now obsolete, presidential commanders in chief having been abolished by 56 & 57 Vict, c 62

² Enacting words repealed (U K) 51 & 52 Vict, c 3 (S L R)

³ Words repealed by 55 & 56 Vict, c 19 (S L R), and by 56 & 57 Vict, c 62, have been omitted

If any member shall be incapable of attending, the governor of the presidency may call to the council a provisional successor, etc

34 And * * * *¹ that if any of the members of the council of either of the said presidencies shall by any infirmity or otherwise be rendered incapable of acting or of attending to act as such, or if any of such members shall be absent from the presidency, and the governor general or either of the said governors shall be desirous of having the advice of a full council upon any urgent business, the governor general or such governors respectively shall by virtue of this Act have full power and authority to call any provisional successor appointed then on the spot, or there being none such on the spot, then any senior merchant on the spot to assist at the council board for that turn, but that such provisional successor or other person shall not be entitled to any salary or other emolument in respect thereof, nor shall his acting as an occasional member of council in manner aforesaid deprive him of any office or employment he before enjoyed

His Majesty, by sign manual, countersigned by the president of the board, may remove any officer or servant of the company in his

35 And * * * *¹ that it shall and may be lawful to and for the King's Majesty, his heirs and successors, by any writing or instrument under his or their sign manual, countersigned by the president of the board of commissioners for the affairs of India, to remove or recall any person or persons holding any office, employment or commission, civil or military, under the said united company in India for the time being, and to vacate and make void all or every or any appointment or appointments, commission or commissions, of any person or persons to any such offices or employments,

and that all and every the powers and authorities of the respective persons so removed, recalled, or whose appointment or commission shall be vacated, shall cease or determine at or from such respective time or times as in the said writing or writings shall be expressed and specified in that behalf

Provided always, that a duplicate or copy of every such writing or instrument under his Majesty's sign manual, attested by the said president for the time being, shall, within eight days after the same shall be signed by his Majesty, his heirs or successors, be transmitted or delivered to the chairman or deputy chairman for the time being of the said company, to the intent that the court of directors of the said company may be apprized thereof

Act not to preclude the directors from recalling their officers or servants.

36 Provided always * * * *¹ that nothing in this Act contained shall extend or be construed to extend to preclude or take away the power of the court of directors of the said company from removing or recalling any of the officers or servants of the said company, but that the said court shall and may at all times have full liberty to remove, recall or dismiss any of such officers or servants at their will and pleasure in the like manner as if this Act had not been made, any gover-

¹ Enacting words repealed (U K), 51 & 52 Vict., c 3 (S L R)

nor general, governor or commander-in-chief appointed by his Majesty, his heirs or successors, through the default of appointment by the said court of directors, always excepted, any thing herein contained to the contrary notwithstanding

37 And * * * *¹ that the departure from India of any governor general, governor, member of council or commander-in-chief, with intent to return to Europe, shall be deemed in law a resignation and avoidance of his office or employment and that the arrival in any part of Europe of any such governor general, governor, member of council or commander-in-chief shall be a sufficient indication of such intent,

Departure from India of any governor general, etc., with intent to return to Europe to be deemed a resignation of employment, etc

and that no act or declaration of any governor general or governor, or member of council during his continuance in the presidency whereof he was so governor general, governor or councillor, except by some deed or instrument in writing, under hand and seal, delivered to the secretary for the public department of the same presidency, in order to its being recorded, shall be deemed or held as a resignation or surrender of his said office, and that the salary and other allowances of any such governor general or other officers respectively shall cease from the day of such his departure, resignation or surrender, and that if any such governor general or any other officer whatever in the service of the said company shall quit or leave the presidency or settlement to which he shall belong, other than in the known actual service of the said company the salary and allowances appertaining to his office shall not be paid or payable during his absence to any agent or other person for his use and in the event of his not returning back to his station at such presidency or settlement, or of his coming to Europe, his salary and allowances shall be deemed to have ceased from the day of his quitting such presidency

While in the presidency no resignation of a governor general etc., to be valid except delivered in writing to the secretary

Regulations respecting salaries

made by the governor general in council, or governor in council, and to be signed by the secretary

made by the governor general in council, and that all orders and other proceedings of the governors and council of Fort Saint George and Bombay, respectively, shall be expressed to be made by the governor in council and not otherwise,

and that the several orders and proceedings of all the said presidencies shall previous to their being published or put in execution be signed by the chief secretary¹ to the council of the presidency by the authority of the governor general in council or governor in council, as the case may be

Governor general in council at Fort William empowered to superintend the other presidencies

40 And * * * *² that the governor general in council at Fort William shall have and be invested by virtue of this Act with full powers and authority to superintend, control and direct the several governments and presidencies of Fort Saint George and Bombay, and all other governments erected or to be erected by the said united company within the limits of their said exclusive trade, in all such points as shall relate to any negotiations or transactions with the country powers or states or levying war or making peace or the collection or application of the revenues of the said acquisitions and territories in India, or to the forces employed at any of such presidencies or governments or to the civil or military government of the said presidencies, acquisitions or territories, or any of them

The other presidencies to obey the orders of the governor general in council of Fort William in all cases, if not repugnant to instructions from England.

41 And in order to prevent the embarrassment and difficulty which may otherwise arise from any doubt whether the orders or instructions of the governor general in council of Fort William relate to other points than those aforesaid,

Be it further enacted that notwithstanding any doubt which may be entertained by the said presidencies or governments to whom such orders or instructions shall be given respecting the power of the governor general in council to give such orders, yet the said presidencies or governments shall be bound to obey such orders and directions of the said governor general in Council in all cases whatever, except only where they shall have received positive orders and instructions from the said court of directors or from the secret committee of directors by the authority of the said board of commissioners for the affairs of India, repugnant to the orders and instructions of the said governor general in council, and not known to the said governor general and council at the time of dispatching their orders and instructions as aforesaid,

Governor general in council to send dates, etc., of dispatches

and the said governor general in council shall at the time of transmitting all such orders and instructions transmit therewith the dates of and the times of receiving the last dispatches, orders and instructions

¹ See the Secretaries to Government Act, 1834 (II of 1834), Genl Acts, Vol I

² Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

which they have received from the court of directors, or from the said secret committee by the direction of the said board of commissioners, on any of the points contained therein,

from England on points contained in instructions to presidencies, etc

and the said presidencies, governments and settlements in all cases where they have received any orders from the said court of directors, or from the said secret committee by the direction of the board of commissioners as aforesaid, which they shall deem repugnant to the orders of the said governor general in council of Fort William, and which were not known to the said governor general and council at the time of dispatching their orders and instructions as aforesaid, shall forthwith transmit copies of the same, together with an account of all instructions or orders made by them in consequence thereof to the governor general in council of Fort William, who shall after the receipt of the same dispatch such further orders and instructions to the said presidencies and governments or settlements as the said governor general in council may judge necessary thereupon

Presidencies to transmit to him copies of any dispatches which they deem repugnant to his instructions

42. And forasmuch as to pursue schemes of conquest and extension of dominion in India are measures repugnant to the wish, the honour and policy of this nation,

War not to be declared, etc, by the governor general in council of Fort William without the command of the directors, etc, except preparations for hostilities shall be made against British, etc

Be it further enacted, that it shall not be lawful for the governor general in council of Fort William aforesaid, without the express command and authority of the said court of directors, or of the said secret committee by the authority of the said board of commissioners for the affairs of India, in any case (except where hostilities have actually been commenced or preparations actually made for the commencement of hostilities against the British nation in India, or against some of the princes or states dependant thereon, or whose territories the said united company shall be at such time engaged by any subsisting treaty to defend or guarantee) either to declare war or commence hostilities or enter into any treaty for making war against any of the country princes or states in India, or any treaty for guaranteeing the possessions of any country princes or states,

and that in any such case it shall not be lawful for the said governor general and council to declare war or to commence hostilities or to enter into any treaty for making war against any other prince or state than such as shall be actually committing hostilities or making preparations as aforesaid, or to make such treaty for guaranteeing the possessions of any prince or state, but upon the consideration of such prince or state actually engaging to assist the company against such hostilities commenced or preparations made as aforesaid,

and in all cases where hostilities shall be commenced or treaty made, the said governor general and council shall, by the most expeditious means they can devise, communicate the same unto the said court of

Communication of commencement of hostilities;

etc, to be
made to the
directors, etc

directors or to the said secret committee, together with a full state of the information and intelligence upon which they shall have commenced such hostilities or made such treaties, and their motives and reasons for the same at large

Governments
of Fort St
George and
Bombay, etc,
not to declare
war, etc, but
by orders
from Fort
William or
the directors,
etc

43 And * * * *¹ that it shall not be lawful for the governors and counsellors of Fort Saint George and Bombay or of any other subordinate settlement to make or issue any order for commencing hostilities or levying war, or to negotiate or conclude any treaty of peace or other treaty with any Indian prince or state (except in cases of sudden emergency or imminent danger, when it shall appear dangerous to postpone such hostilities or treaty) unless in pursuance of express orders from the said governor general in council of Fort William aforesaid, or from the said court of directors, or from the said secret committee by the authority of the said board of commissioners for the affairs of India,

and every such treaty shall, if possible, contain a clause for subjecting the same to the ratification or rejection of the governor general in council of Fort William aforesaid,

and the said governor and counsellors and other officers of the said presidencies of Fort Saint George and Bombay or other settlements, respectively, are hereby required to pay and yield obedience to all such orders as they shall from time to time, respectively, receive from the said governor general in council of Fort William aforesaid concerning the matters aforesaid,

Penalty on
governors,
etc, for
neglect of
orders from
Fort William

and that all and singular the said governors, counsellors and other officers who shall refuse or wilfully neglect or forbear to pay obedience to such orders and instructions as they shall receive from the said governor general in council of Fort William as aforesaid shall be liable to be removed, dismissed or suspended from the exercise of their respective offices or powers by order of the said governor general in council of Fort William and be sent to England, and be subject to such further pains and penalties as are or shall be provided by law in that behalf

Governments
of Fort St
George and
Bombay, etc,
to send to
Fort William
copies of all
their orders,
etc

44 And * * * *¹ that the governors and counsellors of the said presidencies of Fort Saint George and Bombay, respectively, for the time being and the governors and counsellors or other chief officer or officers of and belonging to any other British settlement in India shall and they are hereby respectively required constantly and diligently to transmit to the said governor general in council at Fort William aforesaid true and exact copies of all orders, resolutions and acts in council of their respective governments, presidencies and councils, and also advice and intelligence of all transactions and matters which shall come to their knowledge material to be communicated to the governor general

¹ Enacting words repealed (U K), 51 & 52 Vict., c. 3 (S L R)

in council of Fort William aforesaid or which the said governor general in council shall from time to time require

45. And * * * *¹ that it shall and may be lawful for the governor general of Fort William aforesaid for the time being to issue his warrant under his hand and seal directed to such peace officers and other persons as he shall think fit for securing and detaining in custody any person or persons suspected of carrying on, mediately or immediately, any illicit correspondence dangerous to the peace or safety of any of the British settlements or possessions in India with any of the princes, rajahs or zemindars, or any other person or persons having authority in India, or with the commanders, governors or presidents of any factories established in the East Indies by any European power, or any correspondence contrary to the rules, and orders of the said company or of the governor general in council of Fort William aforesaid, and if upon examination taken upon oath in writing of any credible witness or witnesses before the governor general in council of Fort William aforesaid, there shall appear reasonable grounds for the charge, the said governor general shall be and is hereby authorized and empowered to commit such person or persons so suspected or accused to safe custody, and shall within a reasonable time, not exceeding five days, cause to be delivered to him or them a copy of the charge or accusation, on which he or they shall have been committed, and that the party or parties accused shall be permitted to deliver in his or their defence in writing, together with a list of such witnesses as he or they shall desire to be examined in support thereof,

Governor general of Fort William may issue warrants for securing persons suspected of dangerous correspondence

Proceedings to be had where reasonable grounds for the charge shall appear against such persons

and that such witnesses and also the witness or witnesses in support of the charge shall be examined and cross-examined on oath in the presence of the party accused, and their depositions and examinations taken down in writing,

and if, notwithstanding such defence, there shall appear to the said governor general in council reasonable grounds for the charge or accusation and for continuing the confinement, the party or parties accused shall remain in custody until he or they shall be brought to trial in India or sent to England for that purpose,

and that all such examinations and proceedings or attested copies thereof under the seal of the Supreme Court of Judicature at Fort William or of one of the mayor's courts, shall be transmitted to the said court of directors by the first dispatches, in order to their being produced in evidence on the trial of the parties in the event of their being sent for trial to Great Britain;

and in case such person or persons is or are intended to be sent to England the said governor general shall and he is hereby required¹

¹ Enacting words repealed (U K), 51 & 52 Vict, c 3 (S L R.)

cause such person or persons to be sent to England by the first convenient opportunity, unless such person or persons shall be disabled by illness from undertaking the voyage, in which case he or they shall be sent as soon as his or their state of health will safely admit thereof,

and that the examination and proceedings so transmitted as aforesaid shall be admitted and received as evidence in all courts of law, subject to any just exceptions to the competency of the said witnesses

Governors of Fort St George and Bombay to have the like power with respect to suspected persons as the governor general

46 And * * * ¹ that the several governors or governors in council of Fort Saint George and Bombay shall have the like powers, under and subject to the same regulations and restrictions, to secure and detain persons suspected of any such illicit correspondence as aforesaid within their respective presidencies and settlements and of sending them to England for trial as are hereby given to the said governor general or governor general in council of Fort William respectively

47 And whereas it will tend greatly to the strength and security of the British possessions in India and give energy, vigour and dispatch to the measures and proceedings of the executive government within the respective presidencies, if the governor general of Fort William in Bengal and the several governors of Fort Saint George and Bombay were vested with a discretionary power of acting without the concurrence of their respective councils or forbearing to act according to their opinions in cases of high importance and essentially affecting the public interest and welfare, thereby subjecting themselves personally to answer to their country for so acting or forbearing to act

Governor general or governors may order measures proposed in council, about which they differ from the other members, to be adopted or suspended, etc, without the consent of the council,

Be it enacted that when and so often as any measure or question shall be proposed or agitated in the Supreme Council at Fort William in Bengal or in either of the councils of Fort Saint George and Bombay, whereby the interests of the said united company or the safety or tranquillity of the British possessions in India or any part thereof are or may, in the judgement of the governor general or of the said governors respectively, be essentially concerned or affected, and the said governor general or such governors respectively shall be of opinion that it will be expedient either that the measures so proposed or agitated ought to be adopted or carried into execution, or that the same ought to be suspended or wholly rejected, and the several other members of such council then present shall differ in and dissent from such opinion, the said governor general or such governor and the other members of the council shall and they are hereby directed forthwith mutually to exchange with and communicate in council to each other, in writing under their respective hands (to be recorded at large on their secret consultations), the respective grounds and reasons of their respective opinions,

¹ Enacting words repealed (U K), 51 & 52 Vict, c 3 (S L R)

and if after considering the same the said governor general or such governor respectively, and the other members of the said council, shall severally retain their opinions, it shall and may be lawful to and for the said governor general in the Supreme Council of Fort William, or either of the said governors in their respective councils, to make and declare any order (to be signed and subscribed by the said governor general or by the governor making the same) for suspending or rejecting the measure or question so proposed or agitated, in part or in the whole, or to make and declare such order and resolution for adopting and carrying the measure so proposed or agitated into execution, as the said governor general or such governors in their respective councils shall think fit and expedient,

which said last-mentioned order and resolution so made and declared shall be signed as well by the said governor general or the governor so making and declaring the same as by all the other members of the council then present, and shall, by force and virtue of this Act, be as effectual and valid to all intents and purposes as if all the said other members had advised the same or concurred therein,

and the said members of council, and all officers, civil and military, and all other persons concerned, shall be and they are hereby commanded, authorized and enjoined to be obedient thereto, and to be aiding and assisting in their respective stations in the carrying the same into execution

48 And * * * *¹ that the governor general or governor who shall declare and command any such order or resolution to be made and recorded without the assent or concurrence of any of the other members of council shall alone be held responsible for the same and the consequences thereof the governor making the order to be alone responsible for the same,

49 Provided always * * * *¹ that nothing in this Act contained shall extend or be construed to extend to give power to the said governor general of Fort William in Bengal or to either of the said governors of Fort Saint George and Bombay respectively, to make or carry into execution any order or resolution which could not have been lawfully made and executed with the concurrence of the councils of the respective governments or presidencies, any thing herein contained to the contrary notwithstanding but not to make any order which could not have been made with the consent of the council

50. Provided also * * * *¹ that nothing in this Act contained shall extend or be construed to extend to give any discretionary power acting or forbearing to act without the concurrence of the c

¹ Enacting words *repealed* 5. & 52 Vict., c. 3 (S. L. R.)

whom the office of governor general or governor shall devolve by death, unless provisionally appointed, etc

members of council unto any person on whom the said office of governor general or the said office of governor, respectively, shall happen to devolve by the death or resignation of any governor general or governor for the time being, respectively, or unto any deputy governor general, unless such person shall have been provisionally appointed to succeed to such respective office by the said court of directors, or unless and until such person shall have been or shall be confirmed in the said office;

and that in the mean time all orders, resolutions and other acts and things in such presidency shall be determined by the voice of the major part in number of the governor general and counsellors or governor and counsellor present at the making or doing thereof, such governor general or governor having on any equality of voices a casting vote, and not otherwise or in any other manner, any thing in this Act contained to the contrary notwithstanding

Governor general, etc, not to carry into execution any order against the opinion of the council in certain cases

51. Provided also * * * *¹ that nothing herein contained shall be construed to give power or authority to the governor general of Fort William in Bengal, or either of the governors of Fort Saint George and Bombay respectively, to make or carry into execution any order or resolution against the opinion or concurrence of the counsellors of their respective governments in any matter which shall come under the consideration of the said governor general and governors in council, respectively, in their judicial capacity, or to make, repeal or suspend any general rule, order or regulation for the good order and civil government of the said united company's settlements, or to impose of his own authority any tax or duty within the said respective governments or presidencies

The powers of the governor of either of the other presidencies, etc, vested in the governor general during his stay in the presidency¹

52 And be it further enacted, that when the governor general of Fort William in Bengal for the time being shall find it expedient to visit the presidency of Fort Saint George or the presidency of Bombay, or any province or place in India, the powers and authorities of the governor or other chief officer or officers of such presidency, province or place shall from the time of the proclamation of the arrival of the said governor general therein be suspended (except with regard to judicial proceedings), and shall so continue to be suspended until other proclamation be made to the contrary by the order of the said governor general, or otherwise until the said governor general shall depart therefrom, and no longer,

and that during that interval the powers and authorities of the said governor or other chief officer shall be vested in the said governor general, with liberty nevertheless for such governor to sit and act as a member of the council of such presidency;

¹ Enacting words repealed (U K.), 51 & 52 Vict., c 3 (S L R)

transmitting
copies thereof
to governors,
etc., of pres-
idencies and
court of
directors

Provided always that such governor general shall and he is hereby required to transmit by the first opportunity to the governors and councils of the respective presidencies to which the officers or servants to whom any such orders or instructions shall be so sent to be executed shall belong, copies of such orders and instructions respectively, with his reasons or inducements for issuing the same, and also to transmit to the court of directors of the said company, by the first opportunity that shall or may occur, a copy of all orders and instructions by him so sent to any of the said governments, presidencies, officers or servants respectively, together with his reasons and inducements for sending or issuing the same

Directors,
with the
approbation
of the board
may suspend
and again
revive the
powers of the
governor
general to
act upon his
own author-
ity

55. Provided also * * * *¹ that it shall and may be lawful for the court of directors of the said company with the approbation of the board of commissioners for the affairs of India to suspend all or any of the powers hereby given to the governor general of Fort William to act upon his own sole authority at and for such time or times as they may judge expedient or necessary, and that the same shall be suspended accordingly from the time of the arrival of their orders for that purpose in India, and also for the said court of directors with such approbation as aforesaid, to revive the said powers when and as they shall think fit, any thing herein contained to the contrary notwithstanding

56 [*Rep 24 & 25 Vict, c 54, s 7*]

57² [*Rep 2 & 3 Geo 5, c 6, s 4 and Sch, Part II*]

Regulations
for filling up
vacancies
in the civil
line

¹ Enacting words repealed (U K), 51 & 52 Vict, c 3 (S L R)

² Section 57 ran as follows —

- And that all vacancies happening in any of the offices, places or employments in the civil line of the company's service in India (being under the degree of counsellor) shall be from time to time filled up and supplied from amongst the civil servants of the said company belonging to the presidency wherein such vacancies shall respectively happen, subject only to the restrictions in this Act contained, and not otherwise, (that is to say,) that in the filling up and supplying such vacancies no office, place or employment the salary, perquisites and emoluments whereof shall exceed five hundred pounds per annum shall be conferred upon or granted to any of the said servants who shall not have been actually resident in India as a covenanted servant of the said company for the space of three years at the least in the whole antecedent to such vacancy,
- and if the salary, perquisites and emoluments of any office, place or employment shall exceed one thousand five hundred pounds per annum the same shall not be granted to or conferred upon any of the said servants who shall not have been actually resident in India in the said service for the space of six years at the least in the whole antecedent to such vacancy,
- and if the salary, perquisites and emoluments of any office, place or employment shall exceed three thousand pounds per annum the same shall not be granted to or conferred upon any of the said servants who shall not have been actually resident in India in the said company's service for the space of nine years at the least in the whole,
- and if the salary, perquisites and emoluments of any office, place or employment shall exceed four thousand pounds per annum the same shall not be granted to or conferred upon any of the said servants who shall not have been actually resident in India in the company's service for the space of twelve years at the least in the whole antecedent to such vacancy,
- and that all appointments, advancements and promotions which shall be made for supplying any such vacancies other than as aforesaid shall be null and void

58 And * * * *¹ no person shall for the future be capable of taking in the civil line of the company's service two or more offices, places or employments, the joint amount of the salaries, perquisites and emoluments of which shall exceed in the whole the annual salary, perquisites and emoluments respectively hereinbefore in that behalf prescribed, any law or usage to the contrary notwithstanding ²

No person to hold two offices, the salaries of which amount to more than the prescribed sum

59 to 61. [*Rep as to U K 50 & 51 Vict, c 59 (S L R), s 61 rep as to B I by XIV of 1870, s 1 and sch Ss 59 and 60 omitted as being inapplicable to India* ³]

62. And * * * *¹ that the demanding or receiving any sum of money or other valuable thing as a gift or present or under colour thereof, whether it be for the use of the party receiving the same or for or pretended to be for the use of the said company or of any other person whatsoever by any British subject holding or exercising any office or employment under his Majesty or the said united company in the East Indies shall be deemed and taken to be extortion and a misdemeanor at law, and shall be proceeded against and punished as such under and by virtue of this Act, and the offender shall also forfeit to the King's Majesty, his heirs and successors, the whole gift or present so received or the full value thereof

Receiving gifts to be deemed a misdemeanor

63 Provided always * * * *¹ that the court or jurisdiction before whom any such offence shall be tried shall have full power and authority to direct the said present or gift or any part thereof to be restored to the party who gave the same, or to order the whole or any part thereof or of any fine which the court shall set on the offender to be paid or given to the prosecutor or informer, as such court in its discretion shall think fit

The court may order gifts to be restored, or gifts or fine to be given to the prosecutors

64 Provided always * * * *¹ that nothing herein contained shall extend or be construed to extend to prohibit or prevent any person exercising the profession of counsellor at law physician or surgeon, or any chaplain, from accepting, taking or receiving fees, gratuities or rewards (*bonâ fide*) in the way of his profession only.

Counsellors at law, etc., may take fees in their professions

Neglect to execute the orders of the directors, etc., to be deemed a misdemeanor,

65. And * * * ^{*1} that the wilful disobeying or the wilfully omitting, forbearing or neglecting to execute the orders or instructions of the court of directors of the said company by any governor general, governor, president, counsellor or commander-in-chief or by any other of the officers or servants of the said united company in the East Indies (unless in cases of necessity, the burthen of the proof of which necessity shall lie on the party so disobeying or omitting or forbearing to execute such orders and instructions as aforesaid) and every wilful breach of the trust and duty of any office or employment by any such governor general, governor, president, counsellor or commander-in-chief, or by any of the officers or servants of the said united company in the East Indies, shall be deemed and taken to be a misdemeanor at law, and shall or may be proceeded against and punished as such by virtue of this Act

as also the making of any corrupt bargain for giving up or obtaining any employment in India.

66 And * * * ^{*1} that the making or entering into or being a party to any corrupt bargain or contract for the giving up or for obtaining or in any other manner touching or concerning the trust and duty of any office or employment under the crown or the said united company in the East Indies by any British subject whomsoever there resident, shall be deemed and taken to be a misdemeanor at law and shall be proceeded against and prosecuted as such by virtue of this Act

His Majesty's subjects amenable to courts of justice in India and Great Britain for offences in the territories of native princes.

67 ² And * * * ^{*1} that all his Majesty's subjects as well servants of the said united company as others, shall be and are hereby declared to be amenable to all courts of justice, both in India and Great Britain, of competent jurisdiction to try offences committed in India, for all acts, injuries, wrongs, oppressions, trespasses, misdemeanors, offences and crimes whatever by them or any of them done or to be done or committed in any of the lands or territories of any native prince or state or against their persons or properties, or the persons or properties of any of their subjects or people, in the same manner as if the same had been done or committed within the territories directly subject to and under the British Government in India

68 and 69 [*Rep as to U K 50 & 51 Vict, c 59* (S L R) *Omitted as being spent or inapplicable to India* ³]

¹ Enacting words repealed (U K), 51 & 52 Vict, c 3 (S L R)

² Section 67 has been repealed by Act XI of 1872, s 2 and Sch I

³ It is doubtful whether s 60 is really inapplicable to India, and it should perhaps be expressly repealed by Indian legislation.

70. And * * * *¹ that no person who shall have held any civil or military station whatever in India in the service of the said united company, being under the rank or degree of a member of council or commander-in-chief of the forces, and who, having departed from India by leave of the governor general in council or governor in council, shall not return to India within the space of five years next after such departure, shall be entitled to any rank or restoration of office or be capable of again serving in India, either in the European or Native corps of troops or in the civil line of the company's service, unless in the case of any civil servant of the company it shall be proved to the satisfaction of the court of directors that such absence was occasioned by sickness or infirmity, or unless such person be permitted to return with his rank to India by a vote or resolution passed by way of ballot by three parts in four of the proprietors assembled in general court specially convened for that purpose, whereof eight days previous notice of the time and purpose of such meeting shall be given in the London Gazette, or unless in the case of any military officer it shall be proved to the satisfaction of the said court of directors and the board of commissioners for the affairs of India that such absence was occasioned by sickness or infirmity or some inevitable accident²

No person under the degree of a member of council or commander-in-chief, who shall not return to India within five years from his leave to depart, shall be entitled to rank, etc., or to serve again except as herein provided.

71 to 136 [*Rep 35 & 36 Vict, c 63 (S L R)*]

137. And * * * *¹ that it shall not be lawful for any governor general or governor or any member of council of the said presidencies in India to be concerned in any trade or traffick whatever except on account of the said company, nor for any collector, supervisor or other person employed or concerned in the collection of the revenues or the administration of justice in the provinces of Bengal, Behar and Orissa or either of them, or their agents or servants, or any person or persons in trust for them or any of them, to carry on or be concerned in or to have any dealings or transactions by way of traffick or trade at any place within any of the provinces in India or other parts, or to buy any goods and sell the same again or any part thereof at the place where he or they bought the same, or at any other place within the same province or any other such province or county respectively, except on account of the said company, nor shall it be lawful for any of the judges of the Supreme Court of Judicature to be concerned in any trade or traffick whatever, * * *³

No governor general, etc., to trade except on account of the company

No judge of Supreme Court to be concerned in any trade

138 and 139. [*Rep 35 & 36 Vict, c 63 (S L R)*]

140. And * * * *¹ that all penalties, forfeitures, seizures, causes of seizure, crimes, misdemeanors and other offences,

How offences against this Act may be prosecuted, etc

¹ Enacting words repealed (U K), 51 & 52 Vict, c 3 (S L R)

² Modified by 53 Geo 3, c 155, s 84

³ The words repealed by Act XIV of 1870, s 1 and sch, have been omitted They prohibited any of His Majesty's subjects in the said provinces being concerned in the inland trade in salt, etc, except with the company's permission

which shall arise or be incurred or made under or shall be committed against this Act, shall be sued for, prosecuted, examined, recovered and adjudged in any of his Majesty's courts of record at Westminster, or in the Supreme Court of Judicature at Port William in Bengal, or in one of the mayor's courts at Madras or Bombay respectively, in manner following, that is to say, all such pecuniary penalties and all forfeitures of ships, vessels, merchandize and goods shall and may be sued for, condemned and recovered by action, bill, suit or information wherein no esson, protection, wager of law or more than one imparlance shall be granted or allowed; and all such seizures whether of any person or of any ships, vessels, merchandizes and goods, and all causes of such seizure, shall be cognizable in such actions, suits or prosecutions as shall bring into question or relate to the lawfulness or regularity of any such seizure,

and all such offences as by this Act are not made punishable by pecuniary penalties or by any forfeitures of goods, but by fine or imprisonment, or both, or are hereby created without providing any particular punishment, shall be prosecuted by indictment or information as misdemeanors for breach thereof and shall be punished by fine or imprisonment, or both, at the discretion of the court in which such prosecution shall by virtue of this Act be begun and carried on,

and if such prosecution for a misdemeanor shall be in any of the said courts in the East Indies, and the person or persons prosecuted shall be there convicted, it shall be lawful for such court to order, as part or for the whole of the punishment, any such person or persons to be sent and conveyed to Great Britain

How actions
shall be laid

141. And * * * *¹ that whenever any action, bill, suit, information or indictment shall be brought or prosecuted in any of his Majesty's courts of record at Westminster for any offence against this Act, whether for a penalty, forfeiture or misdemeanor, the offence shall be laid or alleged to have been committed in the city of London or county of Middlesex, at the option of the informer or prosecutor,

Limitation of
actions, and
process

and all actions, bills, suits, informations and indictments for any offence or offences against this Act, whether filed, brought, commenced or prosecuted for a penalty or forfeiture, or for a misdemeanor, in any of his Majesty's courts of record at Westminster, or in the said Supreme Court or any such mayor's court as aforesaid, shall be brought and prosecuted within six years next after the offence shall be committed, and a *capias* shall issue in the first process, and in the case of an offence hereby made punishable by any penalty or forfeiture such *capias* shall specify the sum of the penalty or forfeiture sued for, and the person or

¹ Enacting words repealed (U K), 51 & 52 Vict, c 3 (S L R)

persons sued or prosecuted for such penalty shall on such *capias* give to the person or persons to whom such *capias* shall be directed sufficient bail or security, by natural-born subjects or denizens, for appearing in the Court out of which such *capias* shall issue, at the day or return of such writ, to answer such suit or prosecution, and shall likewise at the time of such appearance give sufficient bail or security, by such persons as aforesaid, in the same court, to answer and pay all the forfeitures and penalties sued for, if he, she or they shall be convicted of such offence or offences, or to yield his, her or their body or bodies to prison,

but if the prosecution shall be for any offence or offences against this Act punishable only as a misdemeanor, then the person or persons against whom such *capias* shall issue, being thereupon arrested, shall be imprisoned and bailable according to law as in other cases of misdemeanor

142 to 150 [*Rep 35 & 36 Vict , c 63 (S L R)*]

151 [*Rep pt 47 Geo 3, Sess 2, c 68, s 6, rep also as to B I by II of 1869, s 2 and sch*]

152 [*Rep as to U K 50 & 51 Vict , c 59 (S L R) , rep also as to B I by II of 1869, s 2 and sch*]

153 and 154. [*Rep as to U K 50 & 51 Vict , c 59 (S L R) , rep also as to B I by X of 1875, s 2 and sch*]

155 [*Rep as to U K 50 & 51 Vict , c 59 (S L R) , rep also as to B I by XIV of 1870, s 1 and sch*]

156 And whereas by the charter of justice under the great seal of Great Britain, bearing date the twenty-sixth day of March, in the fourteenth year of his present Majesty's reign, for establishing the supreme court of judicature of Fort William in Bengal, his Majesty did grant, ordain, establish and appoint that the said supreme court of judicature should be a court of admiralty, with power and authority to enquire, hear, try, examine and determine by the oaths of British subjects all treasons, murders, piracies robberies, felonies, maimings, forestallings, extortions, trespasses, misdemeanors, offences, excesses and enormities and maritime causes whatsoever, according to the laws and customs of the Admiralty of England, done, perpetrated or committed upon the high seas, rivers, ports, creeks, harbours and places overflown within the Admiralty of England, done, perpetrated or committed upon the and throughout the provinces, countries or districts of Bengal, Behar and Orissa and the territories or islands adjacent thereto and dependent

Charter of justice, dated 26th March, 1774, recited

thereon, the cognizance whereof doth belong to the jurisdiction of the Admiralty, as the same is used and exercised in that part of Great Britain called England

And whereas doubts have arisen how far the jurisdiction of the said supreme court in criminal matters is limited by the said charter to offences committed on the coasts of Bengal, Behar and Orissa, territories or islands respectively, within the ebbing and flowing of the sea and high water mark and inasmuch as it is essentially necessary that the Admiralty-jurisdiction of the said supreme court of judicature should extend to crimes and offences committed on the high seas at large

Power
given by
recited
charter
to the
supreme
court of
judicature
to extend to
the high
seas

Be it further enacted and declared, that the power and authority of the said court granted to them by the said charter of justice shall extend and be extended to the high seas, and that the said court shall by force and virtue of this Act have full power and authority to enquire, hear, try, examine and determine, by the oaths of honest and lawful men, being British subjects resident in the town of Calcutta, all treasons, murders, piracies, robberies, felonies, maimings, forestallings, extortions, trespasses, misdemeanors, offences, excesses and enormities, and maritime causes whatsoever, according to the laws and customs of the Admiralty of England, done, perpetrated or committed upon any of the high seas, and to fine, imprison, correct, punish, chastise and reform parties guilty and violators of the laws, in like and in as ample manner to all intents and purposes as the said court might or could do if the same were done, perpetrated or committed within the limits prescribed by the said charter of justice, and not otherwise or in any other manner

157 [*Rep 55 & 56 Vict, c 19 (S L R), rep also as to B I by IV of 1871, s 2 and Sch I*]

158 to 160 [*Rep as to U K 50 & 51 Vict, c 59 (S L R), s 159 rep also as to B I by XIV of 1870, s 2 and Sch I Ss 158 and 160 omitted as being obsolete or inapplicable to India*¹]

161 [*Rep as to U K 4 & 5 Will 4, c 33 Omitted as being inapplicable to India*]

162 [*Rep as to B I by IX of 1871, s 2 and Sch I*]

163 [*Rep as to U K 50 & 51 Vict, c 59 (S L R) Omitted as being spent*]

¹ Section 158 provides for the appointment by the justices of scavengers in Calcutta, and ought perhaps to be expressly repealed by Indian legislation

THE EAST INDIA COMPANY (MONEY) ACT, 1794

(34 Geo. 3, c. 41.)

An Act to empower the East India Company to continue a Bond Debt of two millions, and to increase the same by a further sum, as circumstances may require.

[9th May, 1794]

WHEREAS by an Act made in the last session of Parliament, intituled "An Act for placing the stock called East India Annuities under the management of the governor and company of the Bank of England, and ingrafting the same on the three pounds per centum reduced annuities, in redemption of a debt of four millions two hundred thousand pounds owing by the publick to the East India Company, and for enabling the said company to raise a sum of money by a further increase of their capital stock, to be applied in discharge of certain debts of the said company," it was amongst other things enacted, that it should be lawful for the said company, with the consent of the commissioners of his Majesty's Treasury or any three of them, or the high treasurer for the time being, at any time or times thereafter, to open books and receive subscriptions for enlarging their then present capital stock or fund of five millions to any sum not exceeding the further sum of one million, so as to make their whole capital stock the sum of six millions, and that the said company should out of the monies to arise by the said subscriptions, in the first place apply so much thereof as should be sufficient for the purpose in reducing their bond debt in Great Britain to the sum of one million five hundred thousand pounds, and after such reduction made or a sufficient sum set apart and reserved for that purpose, that the said company should and might apply and dispose of the residue of the monies arising by the said subscriptions in the discharge of such other debts due or coming due from them as they should think fit

Preamble
Recital of
33 Geo 3, c.
47

Sect 8

Sect 14

Sect. 15

And it was thereby also enacted, that after the said bond debt should have been so reduced to one million five hundred thousand pounds as aforesaid it should not be lawful for the said company again to increase the same beyond that amount, unless with the approbation of the board of commissioners for the affairs of India for that purpose in writing first had and obtained and that the whole increase to be made to the said bond debt should in nowise exceed the sum of five hundred thousand pounds

And whereas the said company have accordingly received subscriptions in the manner by the said Act directed, whereby their capital stock hath been increased to six millions, and the said company have out of the monies arising by the said subscriptions, paid, bought up or otherwise discharged bonds to the amount of one million one hundred and

fifty thousand five hundred and seventy-five pounds or thereabouts, and have set apart a sufficient sum for the purchase or discharge of as many more bonds as will reduce the said debt to two millions

And whereas in the present state of the affairs of the said company it will be for their convenience and advantage that, instead of applying any further part of the money which hath arisen by the said subscriptions in or towards a further reduction of their said bond debt beyond the sum already set apart as aforesaid, the company should be permitted to apply the same to the general purposes of their commerce and to continue on foot the said bond debt of two millions, and it is also expedient that the said company should be permitted to increase their said bond debt by a further sum not exceeding one million, as circumstances may require

Company
may continue
their bond
debt of
2,000,000*l*
and borrow a
further sum
of 1,000,000*l*
upon bonds

May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that it shall and may be lawful for the said company to keep on foot and continue their said bond debt in Great Britain at the aforesaid amount of two millions, and to apply the surplus monies of the said subscriptions remaining, after reducing or setting apart a sufficient sum to reduce the said bond debt to the amount aforesaid, to and for the general purposes of their trade and commerce,

and further, that it shall and may be lawful for the said company, by and with the approbation and consent of the board of commissioners for the affairs of India for the time being, at any time or times hereafter to borrow upon and issue bonds under their common seal for any further sum or sums of money not exceeding in the whole the sum of one million, for the purposes of their trade, as circumstances may require, anything contained in the said Act or in any other Act to the contrary notwithstanding

THE EAST INDIA ACT, 1797

(37 Geo 3, c 142)

An Act for the better Administration of Justice at Calcutta, Madras and Bombay, and for preventing British Subjects from being concerned in Loans to the Native Princes in India

[20th July, 1797]

Preamble
13 Geo 3,
c 63

WHEREAS by an Act passed in the thirteenth year of the reign of his present Majesty, intituled " An Act for establishing certain regulations

for the better management of the affairs of the East India Company, as well in India as in Europe," it was enacted, that it should be lawful for his Majesty, by letters patent under the great seal of Great Britain, to erect and establish a supreme court of judicature at Fort William in Bengal, to consist of a chief justice and three other justices, being barristers of England or Ireland of not less than five years standing, to be named from time to time by his Majesty, his heirs and successors and whereas by the said Act and by divers other Acts of Parliament certain jurisdictions, powers and authorities were given to the said court to be exercised in the manner therein directed * * * *

1. [*Rep 55 & 56 Vict , c 19 (S L R)*]

2. And whereas his Majesty has by law no power to direct the application of any part of the revenues of the territorial acquisitions in India as a provision for a chief justice or other judge of the said supreme court, who, from infirmity or other causes approved of by his Majesty, may return to Europe and whereas it is expedient that such power, to a limited extent, be vested in his Majesty, his heirs and successors

His Majesty may direct the payment of a yearly sum out of the territorial revenues to any chief justice or other judge returning to Europe

Be it therefore enacted by the authority aforesaid, that * * *² it shall and may be lawful for his Majesty, his heirs and successors, by warrant under his royal sign manual, to authorize and direct the payment of a competent yearly sum out of the revenues arising from the territorial acquisitions in India, to be applied for the use and behoof of any chief justice or other judge who from age, infirmity or other cause to be approved of by his Majesty, his heirs and successors, shall return to Europe

3 to 10. [*Rep 55 & 56 Vict , c 19 (S L R)*, ss 4 to 8 *rep also as to B I by XIV of 1870, s 1 and sch.*]

11. And * * *³ the said courts so to be erected as aforesaid shall have full power and authority to hear, try and determine all and all manner of suits and actions, either civil or criminal, which by the authority of any Act or Acts of Parliament may now be heard, tried or determined by the mayor's courts at Madras or Bombay respectively, or by the courts of oyer and terminer or gaol delivery there, and all powers, authorities and jurisdictions, of what kind or nature soever, which by any Act or Acts of Parliament may be or are directed to be exercised by the said mayor's courts or the courts of oyer and terminer and gaol delivery, shall and may be as fully and effectually exercised by the said courts to be erected in the manner aforesaid as the same might have

Courts may try all suits which, by authority of Parliament, may now be tried by the mayor's courts, or courts of oyer and terminer

¹ The rest of the preamble repealed by 55 & 56 Vict , c 19 (S L R), has been omitted

² Words repealed by 55 & 56 Vict , c 19 (S L R), have been omitted

³ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

been exercised and enjoyed by the said mayor's courts or courts of oyer and terminer and gaol delivery respectively

The governor and council, and recorder of the court, not subject to arrest

Provided always, that nothing in this Act shall extend to subject the person of the governor or any of the council at the respective settlements, or the person of the recorder of the said court, to be arrested or imprisoned in any suit, action or proceeding in the said court,

Jurisdiction of the courts not to extend to certain matters and persons

nor shall it be competent for the said courts within their respective jurisdictions to hear or determine or to entertain and exercise jurisdiction in any suit or action against the governor or any of the council at the said settlements of Madras and Bombay respectively, for or on account of any act or order, or any other act, matter or thing whatsoever, counselled, ordered or done by them in their public capacity or acting as governor and council,

nor shall it be competent for the said courts within their respective matter concerning the revenue under the management of the said governor and council respectively, either within or beyond the limits of the said towns, forts or factories, or concerning any act done according to the usage and practice of the country and the regulations of the governor and council,

and no person shall be subject to the jurisdiction of any of the said courts for or by reason of being a landowner, land-holder or farmer of land or of land rent, or for receiving a pension, or payment in lieu of any title to or ancient possession of land or land rent, or for receiving any compensation or share of profits for collecting rents payable to the public out of such lands or districts as are actually farmed by himself or those who are his under-tenants by virtue of the farm, or for exercising within the said lands or farms any ordinary or local authority commonly annexed to the possession or farm thereof, or for or by reason of his becoming security for the payment of the rents reserved or otherwise payable out of any lands or farms, or farms of lands, within the dominion subject to the governments of Madras and Bombay respectively,

and no person for or by reason of his being employed by the said company or the governor and council, or by any person deriving authority under them for or on account of his being employed by a native or the descendant of a native of Great Britain, shall become subject to the jurisdiction of the said courts respectively, in any matter of inheritance or succession to goods or lands, or in any matter of dealing or contract between party or parties, except in actions for wrongs or trespasses only

Rights of fathers and masters of families preserved.

12 And in order that due regard may be had to the civil and religious usages of the natives,

Be it enacted, that the rights and authorities of fathers of families and masters of families, according as the same may be exercised by the

Gentu or Mahomedan law, shall be preserved to them within their families respectively, nor shall the same be violated or interrupted by any of the proceedings of the said courts, nor shall any act done in consequence of the rule or law of cast, so far as respects the members of the same family only, be deemed a crime, although the same may not be justifiable by the laws of England

13. And * * * *¹ the said courts so to be erected as aforesaid shall have full power to hear and determine all suits and actions that may be brought against the inhabitants of Madras and Bombay respectively, in the manner that shall be provided by the said charter,

yet nevertheless their inheritance and succession to lands, rents and goods, and all matters of contract and dealing between party and party, shall be determined, in the case of Mahomedans, by the laws and usages of the Mahomedans, and where the parties are Gentus, by the laws and usages of the Gentus, or by such laws and usages as the same would have been determined by if the suit had been brought and the action commenced in a native court, and where one of the parties shall be a Mahomedan or Gentu, by the laws and usages of the defendant,

Courts may determine suits against the inhabitants according to the charter, but their inheritance of lands, etc., to be determined as would have been done in a native court and where one party is a Mahomedan or Gentu, by the usages of the defendant, etc

and in all suits so to be determined by the laws and usages of the natives the said court shall make such rules and orders for the conduct of the same and frame such process for the execution of their judgments, sentences or decrees, as shall be most consonant to the religions and manners of the said natives, and to the said laws and usages respectively, and the easy attainment of the ends of justice,

and such means shall be adopted for compelling the appearance of witnesses and taking their examination as shall be consistent with the said laws and usages, so that the said suits shall be conducted with as much care and at as little expense as is consistent with the attainment of substantial justice

14. And * * * *¹ no action for wrong or injury shall be against any person whatever exercising a judicial office in any country court for any judgment, decree or order of the said court, or against any person for any act done by or in virtue of the order of the said court,

No action for wrong to be against a judicial officer for any order of court, nor for any act done by virtue of any such order, but if any information is intended, it must be brought according to 21 Geo 3, c 70

and in case any information is intended to be brought against any such person or officer, the same shall be brought and proceeded in in the same manner, and to all intents and purposes in the same form, and to the same effect, as such informations are directed to be proceeded in before the supreme court of judicature at Calcutta in Bengal by an Act passed in the twenty-first year of his Majesty's reign, intituled "An Act to explain and amend so much of an Act made in the thirteenth year of the reign of his present Majesty, intituled 'An Act for establishing certain

¹ Enacting words repealed (U K), 51 & 52 Vict., c. 3 (S L R).

regulations for the better management of the affairs of the East India Company as well in India as in Europe,' as relates to the administration of justice in Bengal, and for the relief of certain persons imprisoned at Calcutta in Bengal under a judgement of the supreme court of judicature, and also for indemnifying the governor general and council of Bengal, and all officers who have acted under their orders or authority, in the undue resistance made to the process of the supreme court "

15 to 26 [*Rep 55 & 56 Vict, c 19 (S L R), ss 15 and 17 to 26 rep also as to B I by XIV of 1870, s 1 and sch, s 16 rep also as to B I by VI of 1874, s 2 and sch*]

All new forms of process to be transmitted to the board for affairs of India

27. And * * * *¹ all new forms of process, or rules and orders for the execution thereof, shall be transmitted to the president of the board of commissioners for the affairs of India, to be laid before his Majesty for his royal approbation, correction or refusal,

and such process shall be used and such rules shall be observed until the same shall be repealed or varied, and in the last case with such variation as shall be made therein

28 And whereas the practice of British subjects lending money or being concerned in the lending of the same, or in transactions for the borrowing money for or lending money to the native princes in India has been productive of much mischief and is the source of much usury and extortion

and whereas the wholesome orders of the court of directors of the United Company of Merchants trading to India have not been sufficient to restrain and repress the same

and whereas it is highly desirable that such practices should be prevented in future

From Dec 1, 1797, no British subject to lend any money or be concerned in raising any money for native princes without consent of the court of directors or the governor in council, and any person doing so may be prosecuted for a misdemeanor

Be it therefore enacted, that from and after the first day of December next, no British subject shall by himself, or by any other person directly or indirectly employed by him, lend any money or other valuable thing to any native prince in India, by whatever name or description such native prince shall be called, nor shall any British subject, either by himself or by any other person directly or indirectly employed by him, be concerned in the lending any money to any such native prince, nor shall any British subject be concerned either by himself or by any other person, either directly or indirectly, in raising or procuring any money for any such native prince or as being security for such loan or money, nor shall any British subject lend any money or other valuable thing to any other person for the purpose of being lent to any such native prince, nor shall any British subject, by himself or by any other person, either directly or indirectly, for his use and benefit, take, receive, hold, enjoy

¹ Enacting words repealed (U K), 51 & 52 Vict., c 3 (S L R)

India, have become so much extended as to require further regulations to be made for the due government of the same

33 Geo 3,
c 52

and whereas by an Act of Parliament made and passed in the thirty-third year of the reign of his present Majesty, intituled "An Act for continuing in the East India Company for a further term the possession of the British territories in India, together with their exclusive trade, under certain limitations, for establishing further regulations for the government of the said territories and the better administration of justice within the same, for appropriating to certain uses the revenues and profits of the said company, and for making provision for the good order and government of the towns of Calcutta, Madras and Bombay," it is enacted, that the whole civil and military government of the presidency of Fort Saint George on the coast of Coromandel, and the ordering, management and government of all the territorial acquisitions and revenues on the said coast, and also so much and such parts of the territories and possessions on the coast of Orissa with the revenues of the same as had been and then were under the administration of the government or presidency of Fort Saint George, should be and were thereby vested in a governor and three counsellors of and for the said presidency of Fort Saint George, subject to such rules, regulations and restrictions as were therein mentioned, and that the whole civil and military government of the presidency and island of Bombay on the coast of Malabar, and the ordering, management and government of all the territorial acquisitions and revenues on the said coast of Malabar, should be and were thereby vested in a governor and three counsellors of and for the said presidency and island of Bombay, subject to the provision therein mentioned

The court of directors may appoint what parts of the territorial acquisitions, revenues, etc, shall be subject to either and which of their presidencies subject to the controul of the Commissioners for the Affairs of India.

May it therefore please your Majesty that it may be enacted, and be if enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act it shall and may be lawful for the court of directors of the said company for the time being to declare and appoint what part or parts of the said territorial acquisitions, or of any other now subject to the government of the said presidency of Fort Saint George or the said presidency of Bombay, together with the revenues arising therefrom and the establishment of civil servants connected therewith respectively, shall from thenceforth hereafter be subject to the government of either and which of the said presidencies, or of the presidency of Fort William in Bengal, and from time to time, as occasion may require, to revoke and alter in the whole or in part such appointment, and to make such new distribution of the same as to them shall seem fit and expedient, subject nevertheless in all cases to the superintendence, direction and controul of the commissioners

for the Affairs of India, in like manner as any acts or orders of the said court of directors are now by law subject,

and all such territorial acquisitions, and the revenues arising therefrom and the establishment of civil servants connected therewith, shall from and after the time, and subject as to such time to the conditions and limitations to be by the said court of Directors limited and appointed for such purposes respectively, be to all intents and purposes whatsoever annexed to and made subject to such presidency, and to the court or courts of judicature established or to be established therein respectively

2 And whereas his late Majesty King George the Second did by his letters patent, bearing date at Westminster the eighth day of January in the twenty-first year of his reign, grant unto the said United Company of Merchants of England trading to the East Indies his royal charter, thereby amongst other things constituting and establishing courts of civil, criminal and ecclesiastical jurisdiction at the united company's respective settlements at Madras, Patnam, Bombay, or the island of Bombay, and Fort William in Bengal

Letters patent of Geo 2, dated the 8th Jan in the 21st year of his reign

and whereas the said charter, in so far as it respects the administration of justice at Madras, has been altered and changed by virtue of an Act passed in the thirty-seventh year of his present Majesty, intituled "An Act for the better administration of justice at Calcutta, Madras and Bombay, and for preventing British subjects from being concerned in loans to the native princes in India "

and whereas the said charter, so far as it respects the administration of justice at Fort William in Bengal, has also been altered and changed by virtue of an Act passed in the thirteenth year of his present Majesty, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company as well in India as in Europe," and by divers subsequent statutes

and whereas it may be expedient for the better administration of justice in the said settlement of Madras that a supreme court of judicature should be established at Madras, in the same form and with the same powers and authorities as that now subsisting by virtue of the several Acts beforementioned at Fort William in Bengal,

Be it therefore enacted, that it shall and may be lawful for his Majesty, his heirs and successors, by charter or letters patent under the great seal of Great Britain, to erect and establish a supreme court of judicature at Madras aforesaid, to consist of such and the like number of persons, to be named from time to time by his Majesty, his heirs and successors, with full power to exercise such civil, criminal, admiralty and ecclesiastical jurisdictions, both as to natives and British subjects, and to be invested with such power and authorities, privileges and

His Majesty may establish a supreme court of judicature at Madras, to consist of the like number of persons, and with the like powers, etc., as the

supreme
court at Fort
William

immunities, for the better administration of the same, and subject to the same limitations, restrictions and controul within the said Fort Saint George and town of Madras and the limits thereof and the factories subordinate thereto, and within the territories which now are or hereafter may be subject to or dependant upon the said government of Madras, as the said supreme court of judicature at Fort William in Bengal, by virtue of any law now in force and unrepealed or by this present Act, doth consist of, is invested with or subject to, within the said Fort William or the kingdoms or provinces of Bengal, Behar and Orissa

Exemption of
the governor
and council at
Madras and
the governor
general of
Fort William
from the
authority of
the court

3 Provided always that the governor and council at Madras and the governor general of Fort William aforesaid shall enjoy the same exemption and no other, from the authority of the said supreme court of judicature to be there erected, as is enjoyed by the said governor general and council at Fort William aforesaid from the jurisdiction of the supreme court of judicature there already by law established

4 [*Rep 55 & 56 Vict , c 19 (S L R) , rep also as to B I by XIV of 1870, s. 1 and sch]*

Transfer of
powers of
recorder of
N^o dras to
supreme
court

5. ^{1*} * ^{*2} all powers and authorities granted by the said Act of the thirty-seventh of his present Majesty to the said courts of the recorder at Madras * * * ^{*2} shall and may be exercised by the supreme court of judicature to be erected by virtue of this Act, in the manner and to the extent hereinbefore directed

6 [*Rep 55 & 56 Vict , c 19 (S L R) , rep also as to B I by XIV of 1870, s 1 and sch]*

Salaries to be
in lieu of all
perquisites

7 And ^{1*} * * * * ^{*3} all such salaries shall be in lieu of all fees of office, perquisites, emoluments and advantages whatsoever, and ^{4*} * no fees of office, perquisites, emoluments or advantages whatsoever shall be accepted, received or taken in any manner or on any account or pretence whatsoever, other than such salaries and allowances as are in and by this Act directed to be paid

8 [*Rep as to B I by XIV of 1870, s 1 and sch]*

The salaries
of the judges
of the
supreme

9. Provided always * * ^{*1} that when either of the judges of the supreme court of judicature at Fort William, or of the supreme court of

¹ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

² Words repealed by 55 & 56 Vict , c 19 (S L R) , have been omitted

³ So much of the section as related to the commencement of salaries was repealed, 53 Geo 3, c 155, s 89

⁴ The word " that " was repealed (U K) by 51 & 52 Vict , c. 3 (S L R)

judicature which his Majesty is hereby empowered to erect at Madras, or the recorder of Bombay, shall respectively leave India, the salary now payable or which may become payable under and by virtue of this Act to any such judge or recorder respectively shall cease and be no longer paid, any thing herein or in any former Act or Acts contained to the contrary thereof in anywise notwithstanding

10 and 11. [*Rep 55 & 56 Vict, c 19 (S L R), rep also as to B I by XIV of 1870, s 1 and sch*]

12.¹ And * * *² if the governor general of Fort William in Bengal for the time being, or the governor of the said presidency of Fort Saint George and of the said presidency and island of Bombay respectively for the time being, shall happen to be absent from any council to be assembled for the said respective presidencies of Fort William and Fort Saint George and the said presidency and island of Bombay owing to indisposition or any other cause whatsoever, and shall signify such his intended absence to such council so to be assembled, then and in every such case the senior member for the time being, who shall be present at the council so assembled, shall preside at such council in such manner, and with such full powers and authorities during the time that such councils shall continue to be assembled, as such governor general or governor might or would have had in case such governor general or governor were himself actually present at such council

Provided nevertheless that no act of any council so held shall be valid to any effect whatsoever unless the same shall be signed by such governor general or governor respectively, if such governor general or governor shall at the time be resident at the presidency at which such council shall be so assembled, and shall not be prevented by such indisposition from signing the same

Provided always, that in case such governor general or governor, not being so prevented as aforesaid, shall decline or refuse to sign such act of council he and the several members of the council who shall have signed the same shall mutually exchange with and communicate in writing to each other the grounds and reasons of their respective opinions, in like manner, and subject to such regulations and ultimate responsibility of such governor general or governor respectively, as are by the said Act passed in the thirty-third year of the reign of his present Majesty provided and directed, in cases where such governor general or governor respectively shall, when present, dissent from any measure proposed or agitated in such council respectively

¹ Section 12, in so far as it relates to the Governor General and the Council of Fort William, has been repealed by 55 & 56 Vict, c. 19 (S L R)

² Enacting words repealed (U K), 51 & 52 Vict, c 3 (S L R)

dissent from the council. The governor general, when absent, may nominate a vice-president and deputy governor of Fort William

Provided also, that nothing herein contained shall be taken or construed to prevent such governor general, in case he shall be absent from his own government of Bengal, to nominate a vice-president and deputy governor of Fort William according to the provision for that purpose in the said Act passed in the thirty-third year of his present Majesty

13 to 16 [*Rep 9 Geo. 4, c 74, s 126*]

17 to 19 [*Rep 55 & 56 Vict, c 19 (S L R), rep also as to B I. by XIV of 1870, s 1 and sch*]

The power of the supreme court of judicature of Fort William shall extend over the province of Benares and all places subordinate thereto, and all districts hereafter annexed to the presidency of Fort William

20. * * * * *¹ the power and authority of the said supreme court of judicature in and for the said presidency of Fort William aforesaid, as now and by virtue of this Act established, and all such regulations as have been or may be hereafter, according to the powers and authorities, and subject to the provisions and restrictions before enacted, framed and provided, shall extend to and over the said province or district of Benares, and to and over all the factories, districts and places, which now are or hereafter shall be made subordinate thereto, and to and over all such provinces and districts as may at any time hereafter be annexed and made subject to the said presidency of Fort William aforesaid

21 to 24 [*Rep 55 & 56 Vict, c 19 (S L R), rep also as to B I. by XIV of 1870, s 1 and sch*]

25. [*Rep 57 & 58 Vict, c 39, s 5*]

THE CRIMINAL JURISDICTION ACT, 1802

(42 Geo 3, c. 85.)

An Act for the trying and punishing in Great Britain Persons holding public Employments, for Offences committed abroad, and for extending the Provisions of an Act passed in the Twenty-first Year of the Reign of King James, made for the ease of Justices and others in pleading in Suits brought against them, to all Persons, either in or out of this Kingdom, authorized to commit to safe custody

[22nd June, 1802]

WHEREAS persons holding and exercising public employments out of Great Britain often escape punishment for offences committed by them

¹ Words repealed by 55 & 56 Vict, c 19 (S L R), have been omitted.

for want of courts having a sufficient jurisdiction in or by reason of their departing from the country or place where such offences have been committed, and that such persons cannot be tried in Great Britain for such offences as the law now stands, inasmuch as such offences cannot be laid to have been committed within the body of any county,

and whereas it is therefore expedient that such and the like provisions as are contained in an Act passed in the eleventh and twelfth years of the reign of his late Majesty King William the Third, intituled "An Act to punish governors of plantations of this kingdom for crimes by them committed in the plantations," and in an Act passed in the thirteenth year of the reign of his present Majesty, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe," and in an Act passed in the twenty-fourth year of the reign of his present Majesty, intituled "An Act for the better regulation and management of the affairs of the East India Company, and of the British possessions in India, and for establishing a court of judicature for the more speedy and effectual trial of persons accused of offences committed in the East Indies," should be extended and applied to the punishment of such offenders

May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that, from and after the passing of this Act, if any person who now is, or heretofore has been, or shall hereafter be employed by or in the service of his Majesty, his heirs or successors, in any civil or military station, office, or capacity out of Great Britain, or shall heretofore have had, held, or exercised, or now has, holds, or exercises, or shall hereafter have, hold, or exercise any public station, office, capacity, or employment, out of Great Britain, shall have committed, or shall commit, or shall have heretofore been, or is, or shall hereafter be guilty of any crime, misdemeanor, or offence, in the execution, or under colour, or in the exercise of any such station, office, capacity, or employment as aforesaid, every such crime, offence, or misdemeanor may be prosecuted or enquired of, and heard and determined in his Majesty's Court of King's Bench here in England, either upon an information exhibited by his Majesty's attorney general, or upon an indictment found, in which information or indictment such crime, offence, or misdemeanor may be laid and charged to have been committed in the county of Middlesex,

Offences committed by persons employed in any public service abroad may be prosecuted in the Court of King's Bench in England, and may be laid in Middlesex, and the offenders punished as if the offences had been committed in England

and all such persons so offending and also all persons tried under any of the provisions of the said recited Act passed in the reign of King William aforesaid, or this Act, or either of them, for any offence, crime,

or misdemeanor, and not having been before tried for the same out of Great Britain, shall, on conviction, be liable to such punishment as may, by any law or laws now in force, or any Act or Acts that may hereafter be passed be inflicted for any such crime, misdemeanor or offence committed in England, and shall also be liable at the discretion of his Majesty's Court of King's Bench, to be adjudged to be incapable of serving his Majesty in any station, office, or capacity, civil or military, or of holding or exercising any public employment whatever

The Court of King's Bench, on motion, may award a writ of mandamus to any court of judicature, or the governor, etc., of the country where the offence was committed, to obtain proofs of the matters charged in the indictment, which shall be obtained by *vivâ voce* evidence, and the same shall be transmitted to the Court of King's Bench, and admitted on the trial, etc

2 And * * * *¹ in all cases of indictments found or informations exhibited under and by virtue of this Act, it shall be lawful for his Majesty's said Court of King's Bench, upon motion to be made and such notice thereof as to the said Court of King's Bench may appear to be sufficient by or on behalf of his Majesty's attorney general or other prosecutor, or of the defendant or defendants to award, at the discretion of the said court, a writ or writs of mandamus to any chief justice and judges or any chief justice or other judge singly for the time being of any court or courts of judicature in the country or island, or near to the place where the crime, offence, or misdemeanor shall be charged in such indictment or information to have been committed, or to any governor or lieutenant governor or other person having any chief authority in such country, island or place, or to any other person or persons residing there, as the case may require, and as to the said Court of King's Bench may, under all the circumstances of the case, seem most expedient for the purpose of obtaining and receiving proofs concerning the matters charged in any such indictment or information;

and the person or persons to whom such writ or writs shall be directed and sent are hereby respectively authorized and required to hold a court, session, or meeting, with all convenient speed, for the examination of witnesses and receiving other proofs concerning the matters charged in such indictment or information respectively and in the meantime to cause public notice to be given of the holding the said court session, or meeting, and to issue such summons or other process as may be requisite for the attendance of witnesses, and to adjourn from time to time as occasion may require;

and such examination or examinations shall be then and there openly and publicly taken *vivâ voce* in the said court, session or meeting upon questions put by any such prosecutor or prosecutors, defendant or defendants, or any agent or agents person or persons on behalf of the said attorney general or other prosecutor or prosecutors, and defendant or defendants respectively, if any such shall attend for that purpose, and by the Court person or persons to whom such writ shall be directed and sent as aforesaid upon the respective oaths of witnesses, and the oaths

¹ Enacting words . repealed (U. K.), 51 & 52 Vict. c. 3 (S. L. R.)

of skilful interpreters if necessary, administered according to the forms of their several religions, and shall, by some officer or persons sworn for that purpose, be reduced into writing on parchment or paper and in case any duplicate or duplicates shall be required by or on behalf of the prosecutor or the defendant or defendants respectively into two or more writings on parchment or paper as the case may require,

and such examination or examinations shall be sent to his Majesty in his Court of King's Bench closed up and under the seal or seals of the person or persons before whom such examination or examinations as aforesaid shall have been taken,

and the person or persons taking such examination or examinations as aforesaid shall deliver the same to any person or persons appointed by the said Court of King's Bench to receive the same or shall transmit the same in such manner as the said Court of King's Bench shall direct,

and all such examinations shall with all convenient speed be delivered to one of the clerks in court of his Majesty's Court of King's Bench in the Crown office of the said court for the safe custody thereof,

and every clerk in the said Court of King's Bench to whom any examination or examinations shall be delivered is hereby authorized to administer an oath to the person delivering the same to him in such form as the said Court of King's Bench shall direct,

and such examination or examinations shall be allowed and read upon the trial of any such indictment or information or any other subsequent proceeding thereon or relating thereto and shall be deemed as good and competent evidence as if the witness or witnesses whose examination or examinations shall be so read had been present and sworn and examined *vivâ voce* at such trial, any law or usage to the contrary notwithstanding, saving all just exceptions to be taken to any such examination or examinations or any part thereof when the same shall be offered to be read as aforesaid,

and all persons concerned shall be entitled to take copies of such examinations in the custody of such clerk in court at their own costs and charges

3. And * * * ¹ it shall also be lawful for the said Court of King's Bench upon motion to be made and such notice thereof as aforesaid by or on behalf of his Majesty's attorney general or other prosecutor or defendant or defendants in any such indictment or information to order an examination *de bene esse* of witnesses upon interrogatories in any case where the *vivâ voce* testimony of such witnesses cannot conveniently be had to be taken before an examiner to be appointed by the said court,

Court of King's Bench may order an examination *de bene esse*, in case where *vivâ voce* evidence cannot be had

¹ Enacting words repealed (U K), 51 & 52 Vict., c 3 (S L R)

and the depositions taken upon such interrogatories shall be afterwards admitted to be read in evidence upon the trial of such indictment or information or in any other subsequent proceeding thereon or relating thereto and shall be deemed good and sufficient evidence in the law saving all just exceptions to be taken to such depositions when the same shall be offered to be read as aforesaid

Persons to whom such writs of mandamus shall be directed, shall do all things necessary for the due execution thereof by compelling the appearance and giving evidence of witnesses, etc

4 And * * * *¹ it shall be lawful for any person or persons to whom any such writ or writs of mandamus shall be directed or order sent as aforesaid, and, in case the same shall be directed or sent to more than one person, for so many of them as shall for that purpose be appointed by the said writ or required by the said order, and who shall act in the execution thereof, and such person and persons is and are hereby respectively authorized and required to administer all oaths required to be taken under any of the provisions of this Act, or necessary for the due execution of any such writ or order or any act, matter, or thing relating thereto, and to examine upon oath all persons whom he or they find occasion to summon, and all other persons whom he or they shall think fit to examine, touching all matters and things necessary for the due execution of any such writ or order as aforesaid,

and such person and persons respectively to whom such writ shall be directed or order sent as aforesaid, or so many of them as shall in that behalf be appointed and shall act in the execution thereof as aforesaid, shall have full power and authority to compel the appearance and giving evidence of any witness upon any such writ or order, and to issue special summons or other process for that purpose, and may proceed upon such summons or other process, by imprisonment of the body of any person refusing to appear or give evidence, in like manner as any court or courts of record within this kingdom, having competent authority for that purpose, may proceed against any person or persons for any contempt committed against the authority of any such court

Persons giving false evidence shall be subject to the pains inflicted for perjury

5 And * * *¹ in case any person or persons in the course of his, her, or their examination upon oath, under and by virtue of the said recited Act of the twenty-fourth year of his present Majesty, or this Act, shall wilfully and corruptly give false evidence, such person or persons so offending and being thereof duly convicted, shall be, and is and are hereby declared to be, subject and liable to such pains and penalties as persons guilty of wilful and corrupt perjury shall be liable to by any law or laws then in force in the kingdom, island, or place where such false evidence shall have been given as aforesaid

Where any action shall be brought for anything

6 * * * *
* * * where any action, bill, plaint, or suit upon the case, trespass, battery or false imprisonment shall be brought against any

¹ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

of any of the King's Majesty's towns, castle, or fortresses, being used, occupied, or appointed for places of strength and defence, or which should concern or touch any clerkship to be occupied in any manner of court of record wherein justice was to be ministered that, then all and every such person and persons that should so bargain or sell any of the said office or offices, deputation or deputations or that should take any money, fee, reward or profit for any of the said office or offices, deputation or deputations of any of the said offices, or any part of any of them, or that should take any promise, covenant, bond, or assurance for any money, reward, or profit to be given for any of the said office or offices, deputation or deputations, of any of the said office or offices or any part of any of them, should not only lose and forfeit all his and their right, interest, and estate which such person or persons should then have of, in, or to any of the said office or offices, deputation or deputations, or any part of any of them, or of, in, or to the gift or nomination of any of the said office or offices, deputation or deputations, for the which office or offices, or for the deputation or deputations, of which offices or for any part of any of them any such person or persons should so make any bargain or sale, or take or receive any sum of money, fee, reward or profit or any promise, covenant, or assurance to have or receive any fee, reward, money, or profit, but also that all and every such person or persons that should give or pay any sum of money, reward, or fee, or should make any promise, agreements, bond, or assurance for any of the said offices, or for the deputation or deputations of any of the said office or offices, or any part of any of them, should immediately by and upon the same, fee, money or reward given or paid, or upon any such promise, covenant, bond, or agreement had or made for any fee, sum of money or reward to be paid as is aforesaid, be adjudged a disabled person in the law to all intents and purposes, to have, occupy or enjoy, the said office or offices, deputation or deputations or any part of any of them for the which such person or persons should so give or pay any sum of money, fee or reward, or make any promise, covenant, bond, or other assurance to give or pay any sum of money, fee, or reward, and that all and every such bargains, sales, promises, bonds, agreements, covenants, and assurances as before specified should be void to and against him and them by whom any such bargain, sale, bond, promise, covenant, or assurance should be had or made,

and whereas it was in the said Act provided, that the said Act or anything therein contained should not in anywise extend to any office or offices whereof any person or persons was or should be seised of any estate of inheritance nor to any office of parkership, or of the keeping of any park, house, manor, garden, chase, or forest, or to any of them,

and whereas it was by the said Act further provided, that if any person or persons did thereafter offend in anything contrary to the tenor and effect of the said Act, yet that notwithstanding all judgments given

and all other act and acts executed or done by any such person or persons so offending by authority or colour of the office or deputation which ought to be forfeited or not occupied or not enjoyed by the person so offending, after the said offence so by such person committed or done, and before such person so offending for the same offence should be removed from the exercise, administration and occupation of the said office or deputation, should be and remain good and sufficient in law to all intents, constructions, and purposes in such like manner and form as the same would or ought to have remained and been if this Act had never been had or made,

and whereas it was by the said Act further provided, that the said Act, or anything therein contained should not in anywise extend or be prejudicial or hurtful to any of the chief justices of the King's courts commonly called the King's Bench or Common Place, or to any of the justices of assize, that then were or thereafter should be, but that they and every of them might do in every behalf touching or concerning any office or offices to be given or granted by them or any of them, as they or any of them might have done before the making of the said Act,

Be it therefore declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act the said Act and all the provisions therein contained shall extend and be construed to extend to Scotland and Ireland, and to all offices in the gift of the crown or of any office appointed by the crown, and all commissions, civil, naval or military, and to all places and employments and to all deputations to any such offices, commissions, places, or employments, in the respective departments or offices or under the appointment or superintendence and controul of the lord high treasurer or commissioners of the Treasury, the secretary of state, the lords commissioners for executing the office of lord high admiral, ¹* * * * the commander in chief, ¹* * * * and also the principal officers of any other public department or office of his Majesty's government in any part of the United Kingdom, or in any of his Majesty's dominions, colonies, or plantations which now belong or may hereafter belong to his Majesty, and also to all offices, commissions, places, and employments belonging to or under the appointment or controul of the United Company of Merchants of England trading to the East Indies, in as full and ample a manner as if the provisions of the said Act were repeated as to all such offices, commissions, places, and employments, and made part of this Act,

Provisions of
recited Act
extended to
other offices

and the said Act and this Act and all the clauses and provisions therein respectively contained shall be construed as one Act, as if the same had been herein repeated and re-enacted

¹ Words repealed (U K) by 35 & 36 Vict, c 97 (S L R), have been omitted

When right,
forfeited, ap-
pointment to
go to his
Majesty

2 Provided always * * * *¹ that where the right, estate, or interest of any person or persons shall be forfeited under any of the provisions of the said Act, or this Act, the right of such appointment shall immediately vest in and belong to his Majesty, his heirs and successors

Persons buy-
ing or selling
offices, or re-
ceiving or
paying money
or rewards for
offices, guilty
of a misde-
meanor

3. And * * * *¹ from and after the passing of this Act, if any person or persons shall sell or bargain for the sale of, or receive, have, or take any money, fee, gratuity, loan of money, reward, or profit, directly or indirectly, or any promise, agreement, covenant, contract, bond or assurance, or shall by any way, device, or means contract or agree to receive or have any money, fee, gratuity, loan of money, reward or profit, directly or indirectly, and also if any person or persons shall purchase or bargain for the purchase of, or give or pay any money, fee, gratuity, loan of money, reward or profit, or make or enter into any promise, agreement, covenant, contract, bond or assurance to give or pay any money, fee, gratuity, loan of money, reward, or profit or shall by any way, means, or device contract or agree to give or pay any money, fee, gratuity, loan of money, reward or profit, directly or indirectly, for any office, commission, place, or employment specified or described in the said recited Act or this Act, or within the true intent or meaning of the said Act or this Act, or for any deputation thereto, or for any part, parcel, or participation of the profits thereof, or for any appointment or nomination thereto or resignation thereof, or for the consent or consents, or voice or voices of any person or persons to any such appointment, nomination, or resignation, then and in every such case every such person and also every person who shall wilfully and knowingly aid, abet or assist such person therein shall be deemed and adjudged guilty of a misdemeanor

Persons
receiving
or paying
money for
soliciting
offices, or for
any negocia-
tions or
pretended
negotiations
relating there-
to, guilty
of a mis-
demeanor

4 And * * * *¹ from and after the passing of this Act, if any person or persons shall receive, have or take any money, fee, reward, or profit, directly or indirectly, or take any promise, agreement, covenant, contract, bond, or assurance, or by any way, means, or device contract or agree to receive or have any money, fee, gratuity, loan of money, reward or profit, directly or indirectly, for any interest, solicitation, petition, request, recommendation, or negotiation whatever made or to be made or pretended to be made, or under any pretence of making or causing or procuring to be made any interest, solicitation, petition, request, recommendation, or negotiation in or about or in anywise touching, concerning, or relating to any nomination, appointment, or deputation to or resignation of any such office, commission, place, or employment as aforesaid, or under any pretence for using or having used any interest, solicitation, petition, request, recommendation, or negotiation in or about any such nomination, appointment, deputation or resignation, or for the obtaining, or having obtained, the consent or consents or voice or

¹ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

voices of any person or persons as aforesaid to such nomination, appointment, deputation, or resignation;

and also if any person or persons shall give or pay or cause or procure to be given or paid any money, fee, gratuity, loan of money, reward, or profit, or make or cause or procure to be made any promise, agreement, covenant, contract, bond, or assurance or by any way, means, or device contract or agree or give or pay or cause or procure to be given or paid any money fee gratuity loan of money, reward, or profit for any solicitation, petition, request, recommendation, or negotiation whatever, made or to be made that shall in anywise touch, concern, or relate to any nomination, appointment, or deputation to or resignation of any such office, commission, place, or employment as aforesaid, or for the obtaining or having obtained, directly or indirectly, the consent or consents or voice or voices of any person or persons as aforesaid to any such nomination, appointment, deputation, or resignation,

and also if any person or persons shall for or in expectation of gain, fee gratuity, loan of money, reward, or profit solicit, recommend, or negotiate in any manner for any person or persons in any matter that shall in anywise touch concern, or relate to any such nomination, appointment, deputation, or resignation aforesaid, or for the obtaining, directly or indirectly, the consent or consents, or voice or voices of any person or persons to any such nomination, appointment, or deputation, or resignation aforesaid,

then and in every such case every such person and also every person who shall wilfully and knowingly aid, abet, or assist such person therein shall be deemed and adjudged guilty of a misdemeanor

5 And whereas on the pretence of negotiating or soliciting the sale, transfer, or appointment of any office or offices which under the exception of this Act or otherwise it may be lawful to sell, offices for negotiating the same and advertisements may be published by means and under the colour of which illegal transactions intended to be prohibited by this Act may be carried on

Be it therefore further enacted, that from and after the passing of this Act if any person or persons shall open or keep any house, room, office, or place for the soliciting, transacting, or negotiating in any manner whatever any business relating to vacancies, in or the sale or purchase of, or appointment, nomination, or deputation to, or resignation, transfer, or exchange of any offices, commissions, places or employments whatever in or under any public department, then and in every such case every such person, and also every person who shall wilfully and knowingly aid, abet, or assist therein shall be deemed and adjudged guilty of a misdemeanor

Persons opening or advertising houses for transacting business relating to the sale of offices, guilty of a misdemeanor

6 And * * * *¹ if any person or persons shall advertise or publish or cause or procure to be advertised or in any manner published persons ad-

Penalty on persons ad-

¹ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R),

vertising
such houses,
or the names
of brokers or
agents

any house, room, office, or place to have been or to be opened, set up, or kept for any of the purposes aforesaid, or advertise or publish or cause or procure to be advertised or published the name or names of any person or persons as broker or brokers, agent or agents, solicitor or solicitors for any of the purposes aforesaid, or print or cause or procure or permit or suffer to be printed or advertised any advertisement or advertisements, proposal or proposals for any of the purposes aforesaid,

then and in such case such person or persons shall forfeit for every such offence the sum of fifty pounds, to be sued for, levied or recovered in any of his Majesty's courts of record at Westminster as to all offences committed in England or at Dublin as to offences committed in Ireland or in his Majesty's courts in Scotland as to offences committed in Scotland respectively,

and the whole of every such penalty shall go to the person who shall sue for the same, with full costs of suit

7 and 8 [*Rep as to U K 35 & 36 Vict, c 97 (S L R) Omitted as being obsolete and inapplicable to India*]

Act not to
extend to
offices ex-
cepted in
former Act,
etc

9. Provided always * * * *¹ that nothing in this Act contained shall extend or be construed to extend to any office excepted from the provisions of the said Act passed in the sixth year of the reign of King Edward the Sixth against buying and selling of offices, or to any office which was legally saleable before the passing of this Act and in the gift of any person by virtue of any office of which such person is or shall be possessed under any patent or appointment for his life * * * *²

Act not to
extend to
deputations
where it is
lawful to
appoint depu-
ties, or to
agreements
as to pay-
ment of
principal &
or deputy
out of the
fees.

10 Provided also * * * *¹ that nothing in this Act contained shall extend or be construed to extend to prevent or make void any deputation to any office in any case in which it is lawful to appoint a deputy, or any agreement, contract, bond, or assurance lawfully made in respect of any allowance, salary, or payment made or agreed to be made by or to such principal or deputy respectively out of the fees or profits of such office

Act not to
extend to
annual pay-
ments out of
the fees of
any office to
any former
holder,

11. Provided also * * * *¹ that nothing in the said Act or in this Act contained shall extend to any annual reservation, charge, or payment made or required to be made out of the fees, perquisites, or profits of any office to any person who shall have held such office in any commission or appointment of any person succeeding to such office, or to any agreement, contract, bond, or other assurance made for securing such reservation, charge, or payment,

¹ Enacting words repealed (U K.), 51 & 52 Vict, c 3 (S L R)

² Words repealed (U K) by 35 & 36 Vict, c 97 (S L R), have been omitted

alter and amend an Act passed in the Forty-seventh Year of the reign of His present Majesty relative thereto

[10th June, 1811]

[*Preamble Rep (U K) 50 & 51 Vict, c 59 (S L R)*]

1 to 3. [*Rep 36 & 37 Vict., c 91 (S L R)*]

Bonds issued
by the East
India Com-
pany under
their common
seal shall be
transferable
by delivery,
etc

4 And whereas bonds issued under the common seal of the said united company for money borrowed by them by virtue of the powers enabling them to borrow money upon bond have usually been entered into and have been expressed to have been made payable to the person who for the time being has been the treasurer of the said united company, or his assigns, and upon his indorsement thereof they have been sold and passed from one person to another by delivery of the possession thereof,

and it is expedient that a legal effect should be given to such mode of transfer of the property in the said bonds and the money secured thereby

Be it therefore further enacted that all bonds issued or to be issued under the common seal of the said united company by virtue of any power by which they have been, are, or hereafter may be authorized to borrow money upon their bonds shall be assignable and transferable by delivery of the possession thereof,

and upon every such assignment or transfer the money secured by the bond so assigned or transferred and due and to become due thereon, and the property in such bond, shall be absolutely vested as well at law as in equity in the person or persons, body or bodies politic and corporate to whom the same shall be so assigned or transferred, and the person or persons, body or bodies politic and corporate to whom any such bond shall be so assigned and transferred and his, her, and their executors, administrators, and successors respectively, shall and may maintain his, her, or their action for the principal and interest secured thereby and due thereon, or otherwise relating thereto, in like manner as the obligee or obligees named in any such bond, or his, her, or their executors, administrators, or successors may now maintain any action thereon,

and in every such action the plaintiff or plaintiffs shall recover his, her, or their debt, damages, and costs of suit, and if any such plaintiff or plaintiffs shall be nonsuited, or a verdict be given against him, her, or them, the defendant or defendants shall recover his, her, or their costs against the plaintiff or plaintiffs,

and every such plaintiff or plaintiffs, defendant or defendants respectively recovering may sue out execution for such debt, damages and costs by *capias*, *fieri facias*, or *elegit*

51 Geo. 3, c. 64.] *The East India Company Bonds Act, 1811.* 113

52 Geo. 3, c. 156.] *The Prisoners of War (Escape) Act, 1812.*

15. * * * * * this Act shall be deemed and taken Public Act, to be a public Act, and shall be judicially taken notice of as such by all Judges, Justices and others, without being specially pleaded

THE PRISONERS OF WAR (ESCAPE) ACT, 1812.

(52 Geo. 3, c. 156.)

An Act for the more effectual Punishment of Persons aiding Prisoners of War to escape from His Majesty's Dominions

[29th July, 1812]

WHEREAS many prisoners of war confined and on parole in different parts of his Majesty's dominions have of late escaped by the aid and assistance of many of his Majesty's subjects and others;

and it is necessary to repress such practices and violations of the allegiance due to his Majesty and of the law by more effectual punish-

prisoners to
escape

shall knowingly and wilfully upon the high seas aid or assist such prisoner in his escape to or towards any other dominions or place, such person shall also be adjudged guilty of felony, and be liable to be transported as aforesaid,

and such offences committed upon the high seas and not within the body of any county, shall and may be enquired of, tried, heard, determined, and adjudged in any county within the realm, in like manner as if such offences had been committed within such county

Offenders
may be tried
otherwise
than under
the provisions
of this Act,
but not in
both ways

4. And * * * *¹ this Act shall not be deemed or taken to prevent any person committing any offence mentioned in this Act from being prosecuted in such manner as he might by law have been prosecuted if this Act had not passed,

but nevertheless no person prosecuted otherwise than under the provisions of this Act shall be liable to be prosecuted for the same offence under the provisions hereof,

and no person prosecuted under the provisions of this Act shall for the same offence be liable to be otherwise prosecuted.

THE EAST INDIA COMPANY ACT, 1813

(53 Geo. 3, c 155)

An Act for continuing in The East India Company for a further Term the Possession of the British Territories in India, together with certain exclusive Privileges, for establishing further Regulations for the Government of the said Territories, and the better Administration of Justice within the same, and for regulating the Trade to and from the Places within the Limits of the said Company's Charter

[21st July, 1813]

33 Geo 3,
c 52

WHEREAS by an Act of the Parliament of Great Britain passed in the thirty-third year of his present Majesty's reign for continuing in the East India company for a further term the possession of the British territories in India, together with their exclusive trade, under certain limitations, and for other purposes, the possession and government of the British territories in India, together with an exclusive trade in, to, and from the East Indies, and other the limits described in an Act made in the ninth year of the reign of King William the Third, or in a certain charter of the fifth day of September in the tenth year of the same King, were continued in the united company of merchants of England trading to the East Indies, for a term thereby limited, under certain regulation and conditions.

2 Will 3,
c 11

¹ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

and whereas by an Act of the Parliament of Ireland passed in the same thirty-third year of his present Majesty's reign for regulating the trade of Ireland to and from the East Indies, under certain conditions and provisions for a time therein mentioned the exclusive privileges granted to the said united company by the said Act of the Parliament of Great Britain were confirmed, subject to certain conditions and restrictions

and whereas it is expedient that the territorial acquisitions mentioned in the said Act of the Parliament of Great Britain of the thirty-third year of his present Majesty together with such other territorial acquisitions on the continent of Asia, or in any island situate to the north of the Equator, as are now in the possession and under the government of the said united company with the revenues thereof, should, without prejudice to the undoubted sovereignty of the Crown of the United Kingdom of Great Britain and Ireland in and over the same, or to any claim of the said united company to any rights, franchises, or immunities, remain in the possession and under the government of the said united company for a further term, subject to such powers and authorities for the superintendence, direction, and controul over all acts, operations, and concerns which relate to the civil or military government or revenues of the said territories, and to such further or other powers, authorities, rules, regulations, and restrictions as have been already made or provided by any Act or Acts of Parliament in that behalf, or are made and provided by this Act

and whereas it is expedient that, from and after the tenth day of April one thousand eight hundred and fourteen, the right of trading, trafficking, and adventuring in, to, and from all ports and places within the limits of the said united company's present charter, save and except the dominions of the Emperor of China, should be open to all his Majesty's subjects in common with the said united company, subject to certain regulations and provisions, but that the existing restraints respecting the commercial intercourse with China should be continued, and the exclusive trade in tea preserved to the said company during the further term hereby limited ¹

1 to 32 [*Rep 36 & 37 Vict , c 91 (S L R)*]

33 to 39 [*Rep 37 & 38 Vict , c 35 (S L R)*]

40 and 41 [*Rep 36 & 37 Vict , c 91 (S L R)*].

42 And * * * *² the said board of commissioners for the affairs Colleges and of India, by force and virtue of this Act, shall have and be invested with ^{seminaries of} full power and authority to superintend, direct, and controul all orders ^{the company} to be subject and instructions whatsoever which in anywise relate to or concern any ^{to the con-}troul of the ^{India board}

¹ The preamble has not been repealed and is set forth in full in the Statutes Revised

² Enacting words, repealed (U K), 51 & 52 Vict , c 3 (S L R)

rules, regulations, or establishments whatsoever of the several colleges established by the said company at Calcutta or Fort Saint George, or of any seminaries which may be established under the authority of any of the governments of the said company, in the same manner, to all intents and purposes, and under and subject to all such and the like regulations and provisions, as if such orders and instructions immediately related to and concerned the government and revenues of the said territorial acquisitions in the East Indies

43 And * * * *¹ it shall be lawful for the governor general in council to direct that out of any surplus which may remain of the rents, revenues, and profits arising from the said territorial acquisitions, after defraying the expenses of the military, civil, and commercial establishments, and paying the interest of the debt, in manner herein-after provided, a sum of not less than one lac of rupees in each year shall be set apart and applied to the revival and improvement of literature, and the encouragement of the learned natives of India, and for the introduction and promotion of a knowledge of the sciences among the inhabitants of the British territories in India,

and ²* * any schools, public lectures, or other institutions, for the purposes aforesaid, which shall be founded at the presidencies of Fort William, Fort Saint George, or Bombay, or in any other parts of the British territories in India, in virtue of this Act shall be governed by such regulations as may from time to time be made by the said governor general in council, subject nevertheless to such powers as are herein vested in the said board of commissioners for the affairs of India, respecting colleges and seminaries

Provided always, that all appointments to offices in such schools, lectureships, and other institutions, shall be made by or under the authority of the governments within which the same shall be situated

44 to 48. [*Rep 36 & 37 Vict, c 91 (S L R)*]

49 And whereas no sufficient provision hath hitherto been made for the maintenance and support of a church establishment in the British territories in the East Indies and other parts within the limits of the said company's charter

Be it therefore enacted, that in case it shall please his Majesty, by his royal letters patent under the great seal of the said United Kingdom, to erect, found, and constitute one bishoprick for the whole of the said British territories in the East Indies, and parts aforesaid, one archdeaconry for the presidency of Fort William in Bengal, one archdeaconry for the presidency of Fort Saint George on the coast of Coromandel, and one archdeaconry for the presidency and island of Bombay

¹ Enacting words repealed (U K.), 51 & 52 Vict, c 3 (S L R)

² The word "that" was repealed (U K.) by 51 & 52 Vict, c 3 (S L R)

Schools, public lectures, etc., for the benefit of the natives, to be provided and regulated by governor general in council, subject to control of the board, but appointments to offices therein to be made by the local governments

If a bishop and three archdeacons shall be established in India by his Majesty's letters patent

on the coast of Malabar, and from time to time to nominate and appoint a bishop and archdeacons to such bishoprick and archdeaconries respectively, the court of directors of the said company during such time as the said territorial acquisitions shall remain in the possession of the said company shall and they are hereby required to direct and cause to be paid certain established salaries to such bishop and archdeacons respectively, (that is to say,) their salaries shall be paid by the company

from and out of the revenues of the said presidency of Fort William in Bengal to the said bishop, five thousand pounds by the year, at an exchange of two shillings for the Bengal current rupee,

and to the said archdeacon of the said presidency of Fort William, two thousand pounds by the year, at the like exchange,

and from and out of the revenues of the presidency of Fort Saint George on the coast of Coromandel, to the archdeacon of the said presidency of Fort Saint George, two thousand pounds by the year, at an exchange of eight shillings for the pagoda at Madras,

and from and out of the revenues of the presidency and island of Bombay, on the coast of Malabar, to the archdeacon of the said presidency and island of Bombay, two thousand pounds by the year, at an exchange of two shillings and three pence for the Bombay rupee

50. And * * * * *¹ the said salaries shall take place and commence from and after the time at which such persons as shall be appointed to the said offices respectively shall take upon them the execution of their respective offices, Salaries to commence on taking office, and to cease when functions cease, etc

and ²* * all such salaries shall be in lieu of all fees of office, perquisites, emoluments, and advantages whatsoever,

and ²* * no fees of office, perquisites, emoluments, or advantages whatsoever shall be accepted, received, or taken in any manner or on any account or pretence whatsoever, other than the salaries aforesaid,

and ²* * such bishop and archdeacons respectively shall be entitled to such salaries so long as they shall respectively exercise the functions of their several offices in the East Indies, or parts aforesaid, and no longer

51 Provided always * * * * *¹ that such bishop shall not have or use any jurisdiction, or exercise any episcopal functions whatsoever, either in the East Indies or elsewhere, but only such jurisdictions and functions as shall or may, from time to time, be limited to Bishop to have no jurisdiction or functions, except such as may be limited by

¹ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

² The word " that " was repealed (U K) by 51 & 52 Vict , c 3 (S L R.)

letters
patent.

him by his Majesty by letters patent under the great seal of the United Kingdom ¹

His Majesty
may grant to
the bishop
by letters
patent such
ecclesiastical
jurisdiction
as he may
think neces-
sary

52. And * * * * * ² it shall and may be lawful for his Majesty from time to time, if he shall think fit, by his letters patent under the great seal of the said United Kingdom, to grant to such bishop so to be nominated and appointed as aforesaid such ecclesiastical jurisdiction, and the exercise of such episcopal functions, within the East Indies and parts aforesaid, as his Majesty shall think necessary for the administering holy ceremonies, and for the superintendence and good government of the ministers of the church establishment, within the East Indies and parts aforesaid, any law, charter, or other matter or thing to the contrary notwithstanding

Warrant for
letters patent
to be counter-
signed by the
president of
the board.

53. And * * * * * ² when and as often as it shall please his Majesty to issue any letters patent respecting any such bishoprick or archdeaconry as aforesaid, or for the nomination or appointment of any person thereto, the warrant for the bill in every such case shall be countersigned by the president of the board of commissioners for the affairs of India

54 to 78. [*Rep 36 & 37 Vict, c 91 (S L R)*]

79 And whereas by the said Act of the Parliament of Great Britain ^{33 Geo 3} of the thirty-third year of his Majesty's reign, it is enacted, that the ^{c. 52.} several orders and proceedings of the presidencies of Fort William, Fort Saint George, and Bombay, should, previously to their being published and put in execution, be signed by the chief secretary³ to the council of the presidency, by the authority of the governor general in council, or governors in council, as the case may be

and whereas inconvenience may arise to the public service, unless some other person, besides such chief secretary, be authorized to sign such orders and proceedings

Proceedings
at the presi-
dencies to be
signed by
the principal
secretary of
the depart-
ment in the
absence of the
chief secre-
tary

Be it therefore further enacted, that all such orders and proceedings of the several governments and presidencies in the East Indies and parts aforesaid shall or may, previously to their being published or put in execution, be signed in manner aforesaid, either by the chief secretary³ to the government of the said presidency, or in the absence of such chief secretary³ by the principal secretary of the department of such presidency to which such orders and proceedings relate, anything to the contrary notwithstanding.

80 and 81 [*Rep 36 & 37 Vict, c 91 (S L R)*]

82 And whereas a strict adherence to the provisions contained in the ^{33 Geo} said Act made in the thirty-third year of his present Majesty's reign, in ^{c. 52.}

¹ See 15 & 16 Vict, c 52, s 1, *post*

² Enacting words repealed (U K.), 51 & 52 Vict, c. 3 (S L R)

³ See the Secretaries to Government Act, 1834 (II of 1834), Genl. Acts, Vol I

respect to the filling up and supplying vacancies in the civil service of the said company, has been found impracticable, without detriment to the public service, or injury to the just claims and meritorious exertions of individuals

47 Geo 3,
sess 2, c 68

And whereas a modification of the said Act has been in part adopted in the Act of the forty-seventh of his present Majesty, relative to the scholars educated at Hertford College

Be it therefore enacted, that from and after the passing of this Act any office, place, or employment, the salary and perquisites whereof shall exceed the sum of fifteen hundred pounds, may be granted to and conferred upon the said servants who shall have been actually resident in India in the said company's service for the space of four years at the least in the whole antecedent to such vacancy,

Places of more than 1,500l per annum may be given after four years' service in India.

and if the salary, perquisites, and emoluments of any office, place, or employment shall exceed the sum of three thousand pounds per annum, such office may be conferred upon any of the said servants who shall have been actually resident in India seven years at least in the whole,

places of more than 3,000l per annum after seven years, and places of more than 4,000l per annum (including the council) after ten years.

and if the salary, perquisites, and emoluments of any office, place, or employment shall exceed four thousand pounds per annum, such office, including that of the council, may be granted to or conferred upon any of the said servants who shall have been actually resident in India in the company's service for the space of ten years at the least in the whole

83. [*Rep 36 & 37 Vict, c 91 (S L R)*]

33 Geo 3,
c 52, s 70

84. And whereas by the said Act of the Parliament of Great Britain of the thirty-third year of his Majesty's reign it is enacted, that no person who shall hold a military station in the service of the said company, being under the rank of commander-in-chief of the forces, and who having departed from India by leave of the governor general in council, or governor in council, shall not return to India within five years next after such departure, shall be entitled to any rank, or be capable of again serving in India either in the European or native corps of troops, unless it shall be proved to the satisfaction of the said court of directors, and the board of commissioners for the affairs of India, that such absence was occasioned by sickness or infirmity, or some inevitable accident

and whereas inconvenience to the military service of the said company has been found to arise in certain cases from the said provision

Be it therefore enacted, that it shall and may be lawful for the said court of directors, with the approbation of the said board of commissioners, to permit any military officer, being of the rank of a general officer or colonel commanding a regiment, or being a lieutenant colonel commandant of a regiment, who having departed from India with such

Certain officers may return to India, after five years' absence, with consent of

the directors
and the
board,
though their
absence may
not have been
occasioned
by sickness,
infirmity, or
inevitable
accident.
Restored
civil servants
to take pre-
cedence ac-
cording to
their senior-
ity at the
time of their
departure
from India

leave as aforesaid, shall not have returned to India within five years from the time of such departure to have his rank and to be capable of again serving in India, although such absence may not have been occasioned by sickness or infirmity, or any inevitable accident, any thing in the said Act contained to the contrary notwithstanding.

85. And * * * * 1 when and as often as any person having held any civil station in India in the service of the said company, and having departed from India by leave of the governor general in council, or governor in council, shall be restored to the said company's service after an absence of five years from the time of such departure, such person from and after such restoration shall take rank and precedence only according to the time he shall have passed in the service of the said company at the period of his departure from India,

and on his return to India, if any other civil servant or servants at the settlement to which he shall belong shall have then passed a greater or the like length of time in the service of the said company, as the person so restored had passed when he left India, the person so restored shall be placed and take rank immediately below such other civil servant or servants, any matter or thing to the contrary notwithstanding

86 And whereas by the said Act of the Parliament of Great Britain ^{33 Geo 3,} of the thirty-third year of his present Majesty's reign, it is enacted, ^{c 52, s 56} that all the civil servants of the said united company in India under the rank or degree of member of council shall have and be entitled to precedence in the service of the said company at their respective stations according to the seniority of their appointment

and whereas the several governments of the said company are often prevented from appointing meritorious servants of the said company to be members of courts, boards, and other official establishments, where offices or employments are exercised by several servants of the said company collectively, lest by such appointment one or more members of such court, board, or other establishment should be superseded

Be it therefore enacted, that it shall and may be lawful for any governor general or governor in council of the said company, if he shall think proper, upon application in writing for that purpose by any civil servant of the said company desirous of being appointed a member of any such court, board, or other establishment, by special order to direct that such servant of the said company, on being appointed to any office or employment in such any court, board, or other establishment shall take precedence at or in such court, board, or other establishment according to the seniority of his appointment as a member of such court, board,

¹ Enacting words repealed (U K), 51 & 52 Vict , c 3 (S L R)

Servants of
the company
may be ap-
pointed to
boards,
courts, or
other official
establish-
ments,
though they
do not take
precedence
according
to seniority
of services.

or other establishment, although such civil servant in respect of whom such order shall be made may thereby not take precedence at or in such court, board, or other establishment, according to the seniority of his appointment to the service of the said company,

and such civil servant shall thereupon take precedence at such court, board, or other establishment accordingly, the said Act or any other matter or thing to the contrary notwithstanding

87 and 88. [*Rep 36 & 37 Vict , c 91 (S L R)*]

Recital of 13
Geo 3, c. 63,
s 22

89.¹ And whereas by a certain Act passed in the thirteenth year of his present Majesty's reign, intituled " An Act for establishing certain regulations for the better management of the affairs of the East India company as well in India as in Europe," it is enacted that the salaries of the governor general and council of Fort William, and of the chief justice and judges of the supreme court of judicature at Fort William in Bengal, shall take place and commence, in respect to all such persons who shall be resident in Great Britain at the time of their appointment, upon and from the day on which such persons shall embark from Great Britain, and that the salaries of all such persons who shall at the time of their appointment be resident in India, shall commence from and after their respectively taking upon them the execution of their offices

39 & 40 Geo
3, c. 79, s. 7.

and whereas by an Act passed in the fortieth year of his Majesty's reign, intituled " An Act for establishing further regulations for the government of the British territories in India and the better administration of justice within the same," a similar provision is made in respect to the salaries of the chief justice and judges of the supreme court of judicature at Madras

37 Geo 3,
c 142, s 20

and whereas by an Act passed in the thirty-seventh year of his Majesty's reign, intituled " An Act for the better administration of justice at Calcutta, Madras and Bombay, and for preventing British subjects from being concerned in loans to the native princes in India," a similar provision is made in respect to the salary of the recorder of the court of judicature at Bombay

and whereas no such provision has been made respecting the commencement of the salaries of the governor or council of Fort St George, or of the governor or council of the town and island of Bombay, or of the governor of Prince of Wales' Island, or of the recorder there

and whereas it is expedient that a general and moderate provision should be made in respect of all the said offices, and of others who may happen to be in the United Kingdom at the time of their appointments

¹ S 89 was repealed by 41 & 42 Vict , c 79 (S L R), so far as it relates to the Governor of Prince of Wales' Island and the Recorder there

Recited Acts
repealed as to
commence-
ment of
salaries

Be it therefore further enacted that so much of the said Acts of the thirteenth, thirty-seventh and fortieth years of his Majesty's reign, as relates to the commencement of salaries, shall be and the same is hereby repealed,

Salaries when
to commence

and that from and after the passing of this Act the salaries of the several officers herein-before mentioned shall commence from and after their respectively taking upon them the execution of their offices * *

* * * 1

90 to 92 [*Rep 36 & 37 Vict , c 91 (S L R)*]

93 And whereas it is reasonable that the said court of directors should have power to grant allowances in the nature of superannuations to such of their officers and servants in England, as from age or infirmity may no longer be qualified for the execution of their several offices or employments

Court of di-
rectors may
grant super-
annuations to
company's
servants in
England.

Be it therefore enacted, that it shall and may be lawful to and for the said court of directors to make allowances, compensations, remunerations or superannuations to the officers and servants of the said company in England, subject to the restrictions and according to the conditions and proportions following, (that is to say,)

where it shall be proved to the satisfaction of the said court of directors that any such officer or servant, being under sixty years of age, shall be incapable from infirmity of mind or body to discharge the duties of his office, in such case,

if he shall have served with diligence and fidelity in the service of the said company for ten years, it shall and may be lawful to grant him, by way of superannuation, any annual sum not exceeding one-third of the salary and allowed emoluments of his office,

if above ten years and less than twenty, any such sum not exceeding one-half of such salary and allowed emoluments,

if above twenty years, any such sum not exceeding two-thirds of such salary and allowed emoluments;

if such officer or servant shall be above sixty years of age, and he shall have served fifteen years or upwards, it shall and may be lawful, without proof of infirmity of mind or body, to grant him, by way of superannuation, any annual sum not exceeding two-thirds of the salary and allowed emoluments of his office,

if sixty-five years of age or upwards, and he shall have served forty years or upwards, any such sum not exceeding three-fourths of such salary and allowed emoluments,

if sixty-five years of age or upwards, and he shall have served fifty years or upwards, any such sum not exceeding the whole of such salary and allowed emoluments,

all which allowances so to be made shall be charged in the books of account of the said company to the debit of that branch of the company's affairs to which the said officers or servants may respectively belong, anything in the said Act of the thirty-third year of his Majesty's reign to the contrary notwithstanding

94 Provided always * * * * 1 that an account of all allowances, compensations, remunerations, and superannuations, which shall be granted either to the officers or servants of the said board of commissioners or to the officers or servants of the said company as aforesaid during the preceding year, shall be laid before Parliament within fifteen days after the next meeting thereof

Account of
superannua-
tions to be
laid before
Parliament

95 [Rep 36 & 37 Vict, c 91 (S L R)]

96. And whereas doubts have been entertained whether these several governments of the said company have sufficient power in all cases to make laws and regulations and Articles of War for the order and discipline of officers and soldiers, being natives of the East Indies or other places within the limits of the said company's charter, in the service of the said company, and for the administration of justice by courts martial to be holden upon such officers and soldiers,

and it is expedient that such doubts should be removed

Be it therefore enacted and declared, that the several governments of Fort William, Fort Saint George, and Bombay have and shall, during the continuance of the term hereby granted to the said company, be deemed and taken to have full power and authority to make all such laws and regulations and Articles of War as they may think fit, for the discipline of all officers and soldiers, natives of the East Indies within the limits of the said company's charter, in their and for the administration of justice by courts martial upon such native officers and soldiers, and for the proceeding of such courts martial, and for to or in any manner concerning such native full and ample a manner as the said govern- like any other laws or regulations for the of the several territories subject to the said any Act of Parliament or other matter or standing

The govern-
ments in
India may
make laws,
regulations,
and Articles
of War, for
the native
troops, and
for holding
courts
martial

Provided always, that all laws, regulations, and Articles of War hereafter to be made respecting any of the matters aforesaid, whereby the rights, persons, or property of any such native officers or soldiers may be affected, shall be made and promulgated in every respect in the same manner as other regulations affecting the rights, persons, or property of natives or other individuals amenable to the provincial courts of the presidency of Fort William in Bengal are directed to be made by virtue of an Act passed in the thirty-seventh year of his Majesty's reign, intituled "An Act for the better administration of justice at Calcutta, Madras, and Bombay, and for preventing British subjects from being concerned in loans to the native princes in India" 37 Geo 3
c 112

97. [*Rep 53 & 54 Vict , c 33 (S L R.)*, *rep also as to B I. by XII of 1873, s. 1 and sch.*]

98 and 99. [*Rep 53 & 54 Vict , c 33 (S L R)*, *rep also as to B I by XIV of 1870, s 1 and sch]*

100 to 103. [*Rep 53 & 54 Vict , c 33 (S L. R)*, *rep also as to B I by X of 1895, s 2 and sch]*

104. [*Rep 53 & 54 Vict , c. 33 (S L R)*, *rep also as to B. I. by XIV of 1870, s 1 and sch]*

105. [*Rep 53 & 54 Vict , c 33 (S L R.)*, *rep also as to B. I. by X of 1882, s 2 and sch]*

106. [*Rep 53 & 54 Vict , c 33 (S L R.)*.]

107. [*Rep 53 & 54 Vict , c 33 (S L R)*, *rep. also as to B. I by XI of 1836]*

108 and 109. [*Rep 53 & 54 Viot , c 33 (S. L R.)*, *rep. also as to B I by XIV of 1870, s 1 and sch]*

110. [*Rep 53 & 54 Vict , c 33 (S L R)]*

111 And whereas doubts have arisen whether the advocate general or other principal law officer of the said company, at any of the said company's presidencies, is by law authorized to exhibit to the respective courts of judicature at any of the said presidencies, for and on behalf of his Majesty, informations in the nature of actions at law or bills in equity for or in respect of any cause or causes of action, debts, dues, demands, accounts, reckonings, sum or sums of money, stores, goods, chattels, or any other matter, cause, or thing whatsoever, which may have arisen or accrued, or which may arise or accrue to his Majesty

For remedy thereof, be it further enacted, that it shall and may be lawful to and for the advocate general or other principal law officer of the said company for the time being, at each of the said company's presidencies respectively, for and on behalf of his Majesty, his heirs and successors, to exhibit to the respective supreme courts of judicature of the said company's presidencies of Fort William and Madras, or to the recorder's court at Bombay, or the court of judicature at Prince of Wales' Island, any information or informations in the nature of an action or actions at law, or of a bill or bills in equity as occasion shall require, against any person or persons residing within or being amenable to the jurisdiction of the said courts respectively, for or in respect of any cause or causes of action, debts, dues, demands, accounts, reckonings, sum or sums of money, stores, goods, chattels, or any other matter, cause, or thing whatsoever, as fully and effectually to all intents and purposes as his Majesty's attorney general for the time being is by law authorized to exhibit any such information or informations in any of his Majesty's courts of law or equity in this realm,

Advocate
general of the
company
may file in-
formations in
King's
courts, for
debts due to
his Majesty

and that thereupon such proceedings shall be had, as far as the circumstances of the case and the course and practice of the said courts of judicature at the said several presidencies will admit, as are had upon any such informations exhibited by his Majesty's attorney general in any of his Majesty's courts of law or equity in this realm

112 [*Rep 36 & 37 Vict , c 91 (S L R) , rep also as to B I by II of 1869, s 2 and sch]*

113 [*Rep 36 & 37 Vict , c 91 (S L R) , rep also as to B I by XIV of 1870, s 1 and sch]*

114 to 120. [*Rep 36 & 37 Vict , c 91 (S L R) ,]*

121 [*Rep 36 & 37 Vict , c 91 (S L R) , rep also as to B I. by XII of 1873, s 1 and sch]*

122 [*Rep 36 & 37 Vict , c 91 (S L R) , rep also as to B I by XIV of 1870, s 1 and sch]*

123 [*Rep 37 & 38 Vict , c 35 (S L R) , rep also as to B I by XII of 1873, s 1 and sch]*

124 [*Rep 53 & 54 Vict , c 33 (S L R) , rep also as to B. I by IX of 1871, s 2 and sch 1]*

125 [*Rep 36 & 37 Vict , c 91 (S. L R)]*

THE INDIAN PRESIDENCY TOWNS ACT, 1815

(55 Geo. 3, c. 84)

*An Act to amend so much of an Act of the Thirty-third Year of His Present Majesty as relates to fixing the Limits of the Towns of Calcutta, Madras, and Bombay, * * * [Rep (U K) 50 & 51 Vict, c 59 (S L R)]*

[14th June, 1815]

[Preamble recites 33 Geo 3, c 52, s 159 Rep (U K) 53 & 54 Vict, c 51 (S L R)]

Power to
extend limits
of the towns
of Calcutta,
Madras, and
Bombay

1. ¹* * * It shall and may be lawful to and for the ²governor general in council at Fort William in Bengal, from time to time, as circumstances shall in their judgment require, to extend the limits of the town of Calcutta,

and to and for the governor in council at Fort Saint George, from time to time, as circumstances shall in their judgment require, to extend the limits of the town of Madras,

and to and for the governor in council at Bombay, from time to time as circumstances shall in their judgment require, to extend the limits of the town of Bombay,

and ¹* such extended limits as the said respective governments shall from time to time, in and by their respective orders in council, or by their regulations, declare and prescribe as aforesaid to be the limits of the said towns respectively, shall, from the time of publishing such orders in council or regulations by proclamation at the respective presidencies, be held, deemed, and taken, as and for the true limits of the same,

and from time to time, as any extension shall be made thereof, all jurisdictions, powers, and authorities, which, by virtue of any Act or Acts of Parliament, or any charter, or charters, or any law or usage, shall or may be bounded or regulated by the limits of the said towns respectively, shall thenceforth be bounded and regulated by the limits of the said towns respectively, as they shall be declared and prescribed from time to time in manner herein-before mentioned, any custom, law, or usage to the contrary notwithstanding

¹ The enacting words and the word "that" were repealed (U K) by 53 & 54 Vict, c 61 (S L R)

² This power of the Governor General in Council is transferred to the Governor of Bengal in Council by the Government of India Act, 1912 (2 & 3 Geo 5, c. 6), s 1 (2) printed in Vol II.

Provided always, that no order in council or regulation here-after to be made, and declaring or prescribing the limits of any of the said towns, shall be valid or effectual, until it shall have been sanctioned or shall have been authorized to be made and passed by the court of directors of the united company of merchants of England trading to the East Indies, with the approbation of the board of commissioners for the affairs of India

2 to 9 [*Rep*, 36 & 37 *Vict.*, c 91 (*S L R*)]

THE ORDINATION FOR COLONIES ACT, 1819

(59 Geo. 3, c 60)

An Act to permit the Archbishops of Canterbury and York and the Bishop of London for the Time being to admit Persons into Holy Orders specially for the Colonies

[2nd July, 1819]

[*Preamble Rep* (*U. K*) 53 & 54 *Vict* , c 51 (*S L R*)]

1. ¹ * * * It shall be lawful for the archbishop of Canterbury, Archbishop of Canterbury or York or bishop of London, or any bishop specially authorized by any of them, may ordain specially for the colonies. the archbishop of York, or the bishop of London for the time being, or any bishop specially authorized and empowered by any or either of them, to admit into the holy orders of deacon or priest any person whom he shall upon examination deem duly qualified specially for the purpose of taking upon himself the cure of souls, or officiating in any spiritual capacity in his Majesty's colonies or foreign possessions and residing therein,

and ¹ * a declaration of such purpose and a written engagement to perform the same under the hand of such person, being deposited in the hands of such archbishop or bishop, shall be held to be a sufficient title with a view to such ordination, The fact to be stated in the letters of ordination.

and ¹ * in every such case it shall be distinctly stated in the letters of ordination of every person so admitted to holy orders that he has been ordained for the cure of souls in his Majesty's foreign possessions

2 to 5 [*Rep* 37 & 38 *Vict* , c 77]

6 [*Rep* 36 & 37 *Vict* , c 91 (*S L R*)]

¹ The enacting words and the word "that" in two places were repealed (*U K*) by 55 & 54 *Vict* , c, 51 (*S L R*)

but¹ * *, such proceedings may be resumed and proceeded upon in a subsequent session or in a subsequent Parliament in either House of Parliament in like manner and to all intents and purposes as they might have been in the course of one and the same session, any law, usage, or custom to the contrary notwithstanding

THE INDIAN BISHOPS AND COURTS ACT, 1823

(4 Geo 4, c 71.)

An Act² * * * * * for establishing the Pensions of the Bishop, Archdeacons, and Judges, for regulating Ordinations, and for establishing a Court of Judicature at Bombay

[11th July, 1823]

[Preamble recites 53 Geo 3, c 155 Rep 53 § 54 Vict, c. 33 (S L R)]

1 and 2 [Rep 36 § 37 Vict, c 91 (S L R)]

Pensions to
bishop and
archdeacons.

3 * * * * * it shall and may be lawful for his Majesty,
4 * * * * * in manner in the said Act mentioned, to grant to
any such bishop who shall have exercised in the East Indies or parts
aforesaid for ten years the office of bishop or archdeacon, * * *
* * * * *⁵ pensions not exceeding such sums respectively
as his Majesty by the said Act of the fifty-third year of the reign of his
late Majesty is empowered to grant to any such bishop * * *⁵

Where chap-
lains are
appointed
archdeacons,
their resi-
dence as
chaplains
shall count
towards pen-
sion in a
certain pro-
portion.

4 Provided also * * * * * that if any person residing any
time in the East Indies or parts aforesaid, as one of the chaplains of the
said united company, shall have been or shall be appointed to the office
of such archdeacon as aforesaid, and shall have resided in the East
Indies or parts aforesaid as such archdeacon seven years, the period of
residence of such person as chaplain shall be accounted and taken as and
for a residence as such archdeacon, in the proportion of three years' resi-
dence as such chaplain to two years' residence as such archdeacon

Provided also, that nothing herein contained shall extend or be con-
strued to extend to prejudice the right of any person being or having
been a chaplain of the said united company to any benefit he may be
entitled to as under or by virtue of any regulation now in force or here-
after to be made by the said united company or their court of directors,
nor to prejudice or affect the right of the said united company or their
court of directors to make, repeal, vary, or alter any regulation or regula-
tions respecting the chaplains of the said united company, or the pay

¹ The word "that" was repealed (U K) by 53 & 54 Vict, c 51 (S L R)

² Words repealed by 53 & 54 Vict, c 33 (S L R), have been omitted

³ Enacting words repealed, 53 & 54 Vict, c 51 (S L R)

⁴ The words "his heirs and successors" were repealed by 53 & 54 Vict, c 33 (S L R)

⁵ The words "and to any such archdeacon who shall have exercised in the East Indies or parts aforesaid for the years the office of archdeacon" and the words "or archdeacon" were repealed by 43 Vict, c. 3, s 5

or allowances, pensions or retirements of such chaplains, which the said united company or their court of directors may now lawfully make, repeal, vary, or alter

5 [Recital *Rep* 53 § 54 *Vict*, c 33 (S L R)] It shall and may be lawful for the said company, and they are hereby required, to provide a suitable house at Calcutta for the residence of the said bishop, and ^{1*} * the expence of the visitations to be made by the said bishop from time to time shall be defrayed by the said company out of the revenues of the British territories in India

Residence and expence of visitations of bishop to be provided and defrayed by the company

Provided always, that no greater sum on account of providing such house, or of such visitations, be at any time issued, than shall from time to time be defined and settled by the court of directors of the said company with the approbation of the commissioners for the affairs of India, any law or statute to the contrary notwithstanding

6 [Recital *Rep* 53 § 54 *Vict*, c 33 (S L R)] It shall and may be lawful for the bishop of Calcutta for the time being to admit into the holy orders of deacon and priest respectively, any person whom he shall, upon examination, deem duly qualified specially for the purpose of taking upon himself the cure of souls, or officiating in any spiritual capacity within the limits of the said diocese of Calcutta, and residing therein,

Power to the bishop of Calcutta to admit persons to holy orders for cure of souls in his diocese

and ^{1*} * a declaration of such purpose, and a written engagement to perform the same, under the hand of such person, being deposited in the hands of such bishop, shall be held to be a sufficient title with a view to such ordination,

and ^{1*} * in every such case it shall be distinctly stated in the letters of ordination of every person so admitted to holy orders, that he has been ordained for the cure of souls within the limits of the said diocese of Calcutta only,

and ^{1*} * unless such person shall be a British subject of or belonging to the United Kingdom of Great Britain and Ireland, he shall not be required to take and make the oaths and subscriptions which persons ordained in England are required to take and make

Provided always, that nothing herein contained shall be construed to repeal or affect the provisions of an Act passed in the fifty-third year of the reign of his late Majesty King George the Third, intituled "An Act for continuing in the East India company for a further term the possession of the British territories in India, together with certain exclusive privileges, for establishing further regulations for the government of the said territories, and the better administration of justice within the same, and for regulating the trade to and from the places within the limits of the said company's charter," or any letters patent

Saving of provisions of 53 Geo 3 c 155, etc.

¹ The word "that" was repealed by 53 & 54 *Vict*, c 33 (S L R)

issued by his late Majesty or by his ^{1*} * Majesty, ^{1*} * * * *
in virtue of the said Act or of their lawful prerogative

7 [*Recital of Letters Patent, dated 8th January, in the year 26 Geo 2, and of Acts 37 Geo 3, c 142, 13 Geo 3, c 63, and 39 & 40 Geo 3, c 79 Rep 53 & 54 Vict, c 33 (S L R)*]

His Majesty
may establish
a supreme
court of judi-
cature at
Bombay.

It shall and may be lawful for his Majesty, ^{2*} * * by charter or letters patent under the great seal of Great Britain, to erect and establish a supreme court of judicature at Bombay aforesaid, to consist of such and the like number of persons, to be named from time to time by his Majesty, ^{2*} * * with full power to exercise such civil, criminal, admiralty, and ecclesiastical jurisdiction, both as to natives and British subjects, and to be invested with such powers and authorities, privileges, and immunities, for the better administration of the same, and subject to the same limitations, restrictions, and controul, within the said town and island of Bombay, and the limits thereof, and the territories subordinate thereto, and within the territories which now are or hereafter may be subject to or dependent upon the said government of Bombay, as the said supreme court of judicature at Fort William in Bengal by virtue of any law now in force and unrepealed doth consist of, is invested with, or subject to, within the said Fort William, or the places subject to or dependent on the government thereof

Provided always, that the governor and council at Bombay and the governor general at Fort William aforesaid shall enjoy the same exemption and no other from the authority of the said supreme court of judicature to be there erected, as is enjoyed by the said governor general and council at Fort William aforesaid for the time being from the jurisdiction of the supreme court of judicature there already by law established

8 to 10 [*Rep 36 & 37 Vict, c 91 (S L R), rep also as to B I by XIV of 1870, s 1 and sch*]

Salaries to be
in lieu of all
fees.

11 * * * ^{3*} the said salaries of such chief justice and judges shall commence and take place from and after their respectively taking upon them the execution of their office as aforesaid,

and ^{4*} * all such salaries shall be in lieu of all fees of office, perquisites, emoluments, and advantages whatsoever;

and ^{4*} * no fees of office, perquisites, emoluments, or advantages whatsoever shall be accepted, received, or taken in any manner or on any account or pretence whatsoever, other than such salaries or allowances as are in and by this Act directed to be paid

12 and 13 [*Rep 53 & 54 Vict, c 33 (S L R)*]

¹ The words "present" and "their heirs and successors" were repealed by 53 & 54 Vict c 33 (S L R)

² The words "his heirs and successors" were repealed by 53 & 54 Vict, c, 33 (S L R)

³ Enacting words repealed, 53 & 54 Vict, c 51 (S L R)

⁴ The word "that" was repealed by 53 & 54 Vict, c 51 (S L R)

4 Geo. 4, c. 71.] *The Indian Bishops and Courts Act, 1823.* 183

4 Geo. 4, c. 80.] *The Lascars Act, 1823*

14 to 16 [*Rep 36 § 37 Vict, c 91 (S. L R), s. 14 rep. also as to B I by XIV of 1870, s 1 and sch*]

17 * * * *¹ it hath been and is and shall be lawful for the supreme court of judicature at Madras, within Fort Saint George and the town of Madras and the limits thereof, and the factories subordinate thereto, and within the territories which now are or hereafter may be subject to or dependent upon the government of Madras, and * * * it shall be lawful for the said supreme court of judicature at Bombay to be created by virtue of this Act, within the said town and island of Bombay and the limits thereof, and the factories subordinate thereto, and within the territories which now are or hereafter may be subject to or dependent upon the said government of Bombay,

Supreme courts at Madras and Bombay to have the same powers as the supreme court at Fort William in Bengal.

and the said supreme courts respectively are hereby required within the same respectively,

to do, execute, perform, and fulfil all such acts, authorities, duties, matters, and things whatsoever, as the said supreme court of Fort William is or may be lawfully authorized, empowered, or directed to do, execute, perform, and fulfil within Fort William in Bengal aforesaid, or the places subject to or dependent upon the government thereof

18. [*Rep 36 § 37 Vict, c 91 (S L R)*]

THE LASCARS ACT, 1823

(4 Geo. 4, c. 80.)

*An Act to consolidate and amend the several Laws now in force with respect to Trade from and to places within the limits of the Charter of the East India Company, and to make further Provisions with respect to such Trade, * * * **³

[18th July, 1823]

[*Preamble Rep 53 § 54 Vict, c 33 (S L R)*]

1 to 24 [*Rep 36 § 37 Vict, c 91 (S L R)*]

25 * * * *⁴ it shall and may be lawful to and for the governor general of Fort William in Bengal in council, and he is hereby required, as soon as may be, to make, ordain, and publish, and from time to time as occasion may require to repeal and alter, and newly to

Governor of Fort William to make rules, etc., with respect to masters,

¹ Enacting words repealed, 53 & 54 Vict, c 51 (S L R)

² The word "that" was repealed by 53 & 54 Vict, c 51 (S L R)

³ This Act is repealed except such parts thereof as relate to Asiatic sailors, lascars, being natives of the territories under the government of the East India Company, by 3 & 4 Will 4, c 93, s 1 For saving, see 57 & 58 Vict, c 60, s 125 (5) Rest of the title was repealed by 53 & 54 Vict, c 51 (S L R)

⁴ Enacting words repealed (U K), 51 & 52 Vict, c 3 (S L R)

etc, for
lascars, etc,
in ships
trading under
this Act.

make, ordain, and publish such rules and regulations to be observed by masters, officers, and owners of ships and vessels trading under the authority of this Act, the crews of which ships or vessels shall be wholly or in part composed of Asiatic sailors, lascars, or natives of any of the territories, countries, islands, or places within the limits of the charter of the said united company, for the due supply of provisions, clothing, and other necessary accommodation of such Asiatic sailors, lascars, and natives aforesaid, whilst they shall be on board such ships or vessels, and whilst absent from the countries or places to which they shall respectively belong, and until they shall be carried back to the places to which they may belong or from whence they may have been brought, and for the conveyance back of such Asiatic sailors, lascars, or natives as aforesaid within a reasonable time to be fixed by such rules or regulations

Such rules
and regula-
tions to be
observed in
like manner
as if they had
formed part
of this Act,
etc

26 * * * *¹ all such rules and regulations, until they shall be repealed and altered, shall be observed and performed according to the true intent and meaning thereof, in like manner as if they had been herein inserted and had formed part of this Act,

and a copy of all and every such rules and regulations, signed and authenticated as such by the secretary for the time being of the government of Bengal, or by the secretary for the time being of the said united company, shall be deemed and received and taken in and by all courts, justices, and other persons, as full, sufficient, and conclusive evidence of such rules and regulations

27. [*Rep 57 & 58 Vict, c 60*]

Penalty for
breach of
rules as to
lascars, etc.

28. * * * *¹ for every breach or non-observance of any rule or regulation to be made in pursuance of this Act in relation to Asiatic sailors, lascars, or natives aforesaid, which shall have happened or taken place, * * * *² the master or commander and all and every the owners and owner of the ship or vessel on board which any such Asiatic sailor, lascar, or native aforesaid shall be or shall have been, shall forfeit the sum of ten pounds for every Asiatic sailor, lascar, or native aforesaid in respect of whom such breach, non-observance * * *² or defect shall have happened or taken place, to be recovered against the master, commander, and owners jointly or severally by bill, plaint, information, or action in any of his Majesty's courts of record in the United Kingdom of Great Britain and Ireland, or in the East Indies or elsewhere, to be commenced in the county or presidency or place where any such offender may happen to be, or by conviction in a summary way before two justices of the peace in the United Kingdom or in the East Indies, of the county or presidency where any such offender may happen to be

¹ Enacting words repealed (U K), 51 & 52 Vict, c 3 (S L R)

² Words repealed by 57 & 58 Vict, c 60, have been omitted

and of which sum and sums so to be forfeited one-third part thereof shall go, belong, and be paid to person or persons who shall inform or sue for the same, and the other two-third parts thereof shall be paid to such person or persons as the court or justices before whom the same shall be recovered shall award, to be applied in payment or reimbursement of any expence which may have been incurred by or for the use of the Asiatic sailor, lascar, or native aforesaid, or the respective Asiatic sailors, lascars, or natives aforesaid, in respect of whom such forfeiture or forfeitures shall have been recovered, or in such other manner, for his or their maintenance, return home, or benefit, as the court or justices before whom the same shall be recovered shall direct

29 and 30. [*Rep as to U K 54 & 55 Vict, c 67 Omitted as being inapplicable to India*]

31 [*Recital Rep 53 & 54 Vict, c 33 (S L R)*] If any Asiatic sailor, lascar, or native aforesaid shall at any time be convicted of an act of vagrancy under any of the laws in force in the United Kingdom respecting vagrants, it shall and may be lawful to and for the justice or justices or magistrates, before whom such conviction shall take place, to order and direct that he shall be shipped on board any ship or vessel bound to the place, or as near as may be to the place, to which he shall belong, or from which he shall have been brought and the commander of which shall be willing to take charge of him in order to his being returned thereto, at the expence of the person or persons liable under any rule or regulation to be made as before mentioned, or of any other person being otherwise willing to defray the same,

Lascars, etc
convicted of
vagrancy to
be shipped on
board of a
vessel bound
to the place
from whence
they were
brought

and it shall and may be lawful for the commander of any such ship or vessel having taken charge of such vagrant, and he is hereby required, to keep and detain him on board his ship for the voyage for which he

THE SLAVE TRADE ACT, 1824 ¹

(5 Geo. 4, c. 113.)

An Act to amend and consolidate the Laws relating to the Abolition of the Slave Trade

[24th June, 1824]

[Preamble Rep 53 & 54 Vict, c 33 (S L R)]

1 [Rep 36 & 37 Vict, c 88, s 30]

The purchase, sale, or contract for slaves declared unlawful, as also the removal, importation or exportation of slaves,

the fitting out of vessels, or making of loans or guarantees on shipping of goods for the above purposes,

2. * * * * it shall not be lawful (* * * *) for any persons to deal or trade in, purchase, sell, barter, or transfer, or to contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves, or to carry away, or remove, or to contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves, or to import or bring, or to contract for importing or bringing into any place whatsoever slaves or other persons, as or in order to their being dealt with as slaves, or to ship, tranship, embark, receive, detain, or confine on board, or to contract for the shipping, transshipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves, or to ship, tranship, embark, receive, detain, or confine on board, or to contract for the shipping, transshipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons for the purpose of their being imported or brought into any place whatsoever as or in order to their being dealt with as slaves, or to fit out, man, navigate, equip, despatch, use, employ, let, or take to freight or on hire, or to contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting, or taking to freight or on hire, any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful, or to lend or advance, or become security for the loan or advance, or to contract for the lending or advancing, or becoming security for the loan or advance of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful, or to become guarantee or security, or to contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the

¹ Extended by 6 & 7 Vict, c 98

² The words "and be it further enacted, that" were repealed (U K) by 51 & 52 Vict, c. 57 (S L R)

³ The words "except in such special cases as are hereinafter mentioned" were repealed (U K.) by 53 & 54 Vict, c 33 (S L R)

then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence the sum of one hundred pounds of lawful money of Great Britain for each and every slave so dealt or traded in, purchased, sold, bartered, or transferred, carried away, removed, imported, brought, shipped, transhipped, embarked, received, detained, or confined on board, or so contracted for as aforesaid, the one moiety thereof to the use of his Majesty, ¹* * * * and the other moiety to the use of any person who shall inform, sue, and prosecute for the same,

and all property or pretended property in such slaves or persons as aforesaid shall also be forfeited, and the said slaves or persons shall and may be seized and prosecuted as herein-after is mentioned and provided

Ships fitted out for slave trade to be forfeited.

4. 2* * * * if any persons shall fit out, man, navigate, equip, despatch, use, employ, let or take to freight or on hire, or contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting or taking to freight or on hire, any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, such ship, vessel, or boat, together with all her boats, guns, tackle, apparel, and furniture, and together likewise with all property, goods, or effects found on board belonging to the owner or owners, part owner or part owners of any such ship, vessel, or boat, shall become forfeited, and may and shall be seized and prosecuted as herein-after is mentioned and provided

Penalty for embarking capital in the slave trade, etc.

5. 2* * * * if any persons shall knowingly and wilfully lend or advance, or become security for the loan or advance, or shall contract for the lending or advancing, or becoming security for the loan or advance of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful,

then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money, goods, and effects so lent, advanced, or secured or so contracted for as aforesaid, to be recovered and applied as is herein-after mentioned and provided

Penalty for slave adventures.

6 2* * * * if any persons shall knowingly and wilfully become guarantee or security, or contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or shall in any

¹ The words "his heirs and successors" were repealed (U K) by 53 & 54 Vict., c 33 (S L R)

² The words "And be it further enacted, that" and "(except in such special cases or for such special purposes as are in and by this Act permitted)" were repealed (U K.) by 51 & 52 Vict, c 57 (S L R), and 53 & 54 Vict, c 33 (S L R), respectively

other manner engage or contract to engage directly or indirectly therein as a partner, agent, or otherwise,

then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money, goods, and effects so by them secured or contracted so to be as aforesaid, to be recovered and applied as is herein-after mentioned and provided

7. * * * if any person shall knowingly and wilfully ship, tranship, lade, receive, or put on board, or contract for the shipping, transshipping, lading, receiving, or putting on board of any ship, vessel, or boat, any money, goods, or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, Penalty for shipping goods, etc, to be employed in the slave trade.

then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money, goods, and effects so shipped, transhipped, laden, received, or put on board, or contracted so to be as aforesaid, to be recovered and applied as is herein-after mentioned and provided

8. * * * if any person shall knowingly and wilfully insure or contract for the insuring of any slaves, or any property or other subject matter engaged or employed, or intended to be engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, Penalty for insuring slaves or slave adventures

then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence the sum of one hundred pounds of lawful money of Great Britain for every such insurance or contract for the same, and also treble the amount of the premium of any such insurance or contract for the same, the one moiety thereof to the use of his Majesty,² * * *, and the other moiety to the use of any person who shall inform, sue, and prosecute for the same, and every such insurance shall be absolutely null and void

9. * * * if any subject or subjects of his Majesty, or any person or persons residing or being within any of the dominions, forts, settlements, factories or territories now or hereafter belonging to his Majesty, or being in his Majesty's occupation or possession, or under the government of the United Company of Merchants of England trad- Subjects of his Majesty, etc, dealing in slaves on the high seas, etc, to be deemed guilty of piracy

¹ See footnote to section 4

² The words "his heirs and successors" were repealed (U K) by 53 & 54 Vict, c 33 (S L R)

³ The words "And be it further enacted, that" were repealed (U K) by 51 & 52 Vict, c 57 (S L R)

ing to the East Indies, shall, ¹* * * * upon the high seas, or in any haven, river, creek, or place where the admiral has jurisdiction, knowingly and wilfully carry away, convey, or remove, or aid, or assist in carrying away, conveying, or removing, any person or persons as a slave or slaves or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves, or shall ²* * *

* upon the high seas, or within the jurisdiction aforesaid, knowingly and wilfully ship, embark, receive, detain, or confine, or assist in shipping, embarking, receiving, detaining, or confining, on board any ship, vessel, or boat, any person or persons for the purpose of his, her, or their being carried away, conveyed, or removed as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves,

then and in every such case the person or persons so offending shall be deemed and adjudged guilty of piracy, felony, and robbery ³* *

Persons dealing in slaves or removing or exporting or importing slaves,

10 ⁴* * * * if any persons shall deal or trade in, purchase, sell, barter, or transfer or contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves, or shall, ⁵* * * * carry away or remove, or contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves, or shall import or bring, or contract for the importing or bringing into any place whatsoever slaves or other persons, as or in order to their being dealt with as slaves, or shall, ⁵* * * * ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transshipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves, or shall ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transshipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their

¹ The words "except in such cases as are in and by this Act permitted" and "after the first day of January, 1825" were repealed (U K) by 53 & 54 Vict, c. 33 (S L R), and 51 & 52 Vict, c. 57 (S L R), respectively

² The words "after the said first day of January, 1825" and "except in such cases as are in and by this Act permitted" were repealed (U K), by 51 & 52 Vict., c. 57 (S L R), and 53 & 54 Vict, c. 33 (S D R), respectively

³ The words "and being convicted thereof shall suffer death without benefit of clergy and loss of lands, goods and chattels as pirates, felons and robbers upon the seas ought to suffer" were repealed (U K) by 51 & 52 Vict, c. 57 (S L R)

⁴ The words "And be it further enacted, that" and "(except in such special cases as are in and by this Act permitted or otherwise provided for)" were repealed (U K), by 51 & 52 Vict, c. 57 (S L R), and 53 & 54 Vict, c. 33 (S L R), respectively

⁵ The words "otherwise than as aforesaid" were repealed (U K.) by 53 & 54 Vict, c. 33 (S L R)

being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves, or shall fit out, man, navigate, equip, despatch, use, employ, let, or take to freight or on hire, or contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting, or taking to freight or on hire any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or shall knowingly and wilfully lend or advance, or become security for the loan or advance, or contract for the lending or advancing or becoming security for the loan or advance, of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or shall knowingly and wilfully become guarantee or security, or contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or in any other manner to engage or to contract to engage directly or indirectly therein as a partner, agent, or otherwise, or shall knowingly and wilfully ship, tranship, lade, receive, or put on board, or contract for the shipping, transshipping, lading, receiving or putting on board of any ship, vessel, or boat, money, goods, or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or shall take the charge or command, or navigate, or enter and embark on board, or contract for the taking the charge or command, or for the navigating or entering and embarking on board of any ship, vessel, or boat, as captain, master, mate, surgeon, or supercargo, knowing that such ship, vessel, or boat is actually employed or is, in the same voyage or upon the same occasion in respect of which they shall so take the charge or command, or navigate or enter and embark, or contract so to do as aforesaid, intended to be employed, in accomplishing any of the objects, or the contracts in relation to the objects which objects and contracts have herein-before been declared unlawful, or shall knowingly and wilfully insure or contract for the insuring of any slaves, or any property or other subject matter engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or shall wilfully or fraudulently forge or counterfeit any certificate, certificate of valuation, sentence or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or any receipt (such receipts being required by this Act), or any part of such certificate, certificate of valuation, sentence or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or receipt as aforesaid, or shall knowingly and wilfully utter or publish

or fitting out slave ships,

or embarking capital, etc., in the slave trade,

or guaranteeing slave adventures,

or shipping goods, etc., to be employed in the slave trade,

or serving on board slave ships as captain, master, surgeon, etc

or insuring slaves or slave adventures,

or forging instruments relating to the slave laws,

the same, knowing it to be forged or counterfeited, with intent to defraud his Majesty, 1* * * or any other person or persons whatsoever, or any body politic or corporate,

declared
guilty of
felony, etc

then and in every such case the person or persons so offending, and their procurers, counsellors, aiders, and abettors, shall be and are hereby declared to be felons, and shall be transported beyond seas for a term not exceeding fourteen years, or shall be confined and kept to hard labour for a term not exceeding five years, nor less than three years, at the discretion of the court before whom such offender or offenders shall be tried and convicted

Seamen, etc,
serving on
board such
ships declared
guilty of a
misdemeanor,
etc

11 2* * * * if any persons shall enter and embark on board, or contract for the entering and embarking on board of any ship, vessel, or boat, as petty officer, seaman, marine, or servant, or in any other capacity not herein-before specifically mentioned, knowing that such ship, vessel, or boat is actually employed or is, in the same voyage or upon the same occasion in respect of which they shall so enter and embark on board, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful,

then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall be and they are hereby declared to be guilty of a misdemeanor only, and shall be punished by imprisonment for a term not exceeding two years

Making any
offence
piracy,
felony, etc,
shall not
affect the
provisions of
this Act,
imposing for
feitures or
penalties for
any such
offence

12 Provided always 3* * * * that nothing in this Act contained, making piracies, felonies, robberies, and misdemeanors of the several offences aforesaid, shall be construed to repeal, annul, or alter the provisions and enactments in this Act also contained, imposing forfeitures and penalties or either of them upon the same offences, or to repeal, annul, or alter the remedies given for the recovery thereof, but that the said provisions and enactments imposing forfeitures and penalties shall in all respects be deemed and taken to be in full force, 4* *

13 to 38 [Rep 36 & 37 Vict, c 88, s 30]

Mortgages,
etc, given
for purposes
hereby de-
clared un-
lawful shall
be void, ex-
cept in case
of *bond fide*
purchasers
of negotiable
securities
without
notice

39 5* * * * every mortgage, bond, bill, note, or other security, made in or to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have by this Act been declared unlawful, shall, except in the case of a *bond fide* purchaser or holder of any such of the said securities as are in their

¹ The words "his heirs or successors" were repealed (U K) by 53 & 54 Vict, c 33 (S L R)

² The words "And be it further enacted that" and "(except in such special cases and for such special purposes as are in and by this Act expressly permitted)" were repealed (U K) by 51 & 52 Vict, c 57 (S L R), and 53 & 54 Vict, c 33 (S L R), respectively

³ The words "and it is hereby further enacted and declared" were repealed (U K) by 51 & 52 Vict, c 57 (S L R)

⁴ Rest of the section was repealed by 36 & 37 Vict, c 88, s 30

⁵ Enacting words repealed (U K), 51 & 52 Vict, c 57 (S L R)

nature negotiable, who may have purchased or obtained the same without notice that the same were made or given for any such unlawful purposes, be void

40. Provided always ¹* * * * that if any person ^{Offenders} or persons offending as a petty officer, seaman, marine, or servant, ^{giving in-} against any of the provisions of this Act, shall, within two years after the offence ^{formation} committed, give information on oath before any competent magistrate ^{against} against any owner or part owner, or any captain, master, mate, surgeon, ^{owners of} or supercargo of any ship or vessel, who shall have committed any offence ^{vessels, etc.,} against this Act and shall give evidence on oath against such owner, or ^{to be ex-} part owner, captain, master, mate, surgeon, or supercargo, before any ^{empted from} magistrate or court before whom such offender may be tried, ^{penalties}

or if such person or persons so offending shall give information to any of his Majesty's ambassadors, ministers plenipotentiary, envoys, chargés d'affaires, consuls, residents, or other agents, so that any person or persons owning such ship or vessel, or navigating or taking charge of the same, as captain, master, mate, surgeon, or supercargo may be apprehended,

such person or persons so giving information and evidence shall not be liable to any of the pains or penalties under this Act incurred in respect of his offence, and his Majesty's ambassadors, ministers plenipotentiary, envoys, chargés d'affaires, consuls, residents, or other agents are hereby required to receive any such information as aforesaid, and to transmit the particulars thereof, without delay, to one of his Majesty's principal secretaries of state, and to transmit copies of the same to the commanders of his Majesty's ships or vessels then being in the said port or place

41 to 46. [*Rep 36 & 37 Vict, c 88, s 30*]

47. ¹ * * * * all actions, suits, bills, indictments, ^{Limitation of} or informations, for the recovery of any of the penalties or forfeitures ^{suits, etc.,} under this Act, may be commenced, had, brought, sued, exhibited, or ^{for penalties} prosecuted at any time within five years after the offence committed, by ^{and forfei-} reason whereof such penalty or forfeiture shall be incurred ^{tures}

Provided always, that where any slave or slaves have been, or shall ^{No limit-} at any time have been illegally imported, nothing herein contained shall ^{ation to suits} extend to prevent proceeding being commenced to obtain the condemna- ^{for condem-} tion or forfeiture thereof, but that the said slave or slaves so illegally ^{nation and} imported shall and may be condemned and forfeited at any time after ^{forfeiture of} such illegal importation ^{slaves ille-} ^{gally im-} ^{ported.}

48 to 82 [*Rep 36 & 37 Vict, c 88, s 30*]

¹ Enacting words repealed (U K), 51 & 52 Vict, c 57 (S L R)

and to all the pains, penalties, forfeitures, and punishments contained in this Act, for any breach or disobedience thereof, or of any order or orders of his Majesty in council made under the authority thereof

Power for
privy council
to order
vessels com-
ing from
America or
the West
Indies, when
the yellow
fever, etc.,
prevails
there, to
anchor at
certain
places, but
without be-
ing liable to
quarantine.

3. * * * *¹ it shall and may be lawful for his Majesty,
2* * * *² by his * * *³ order in council, or for the
lords or others of his * * *⁴ privy council, or any two or more of them,
by their order, from time to time, as often as they may see reason to
apprehend that the yellow fever or other highly infectious distemper
prevails on the continent of America, or in the West Indies, to require
that every vessel coming from or having touched at any port or place
on the continent of America or in the West Indies shall come to an
anchor at certain places to be appointed from time to time by the com-
missioners of his Majesty's customs (who are hereby authorized to make
such appointment), for the purpose of having the state of health of the
crew of such vessel ascertained before such vessel shall be permitted to
enter the port whereto she shall be bound, or any other port of the
United Kingdom, but ¹* * such vessel shall not be deemed liable to
quarantine unless it shall be afterwards specially ordered under that
restraint

Power to lord
lieutenant of
Ireland,
where the
urgency of
the case re-
quires, to
give direc-
tions by
proclamation,
where vessels
shall per-
form quaran-
tine, etc

4 Provided always * * * *¹ that it shall and may be
lawful for the lord lieutenant, *or other chief governor or governors of
Ireland,*¹ by his *or their*¹ order or orders, made by the advice and consent
of his Majesty's privy council in Ireland, and notified by proclamation,
to give directions, where the urgency of the case shall require, as to the
place or places, and as to the time and manner in which ships and vessels
arriving, and persons, goods, and merchandizes coming or imported
into any port or place in Ireland, shall make their quarantine, in pursu-
ance of the provisions of this Act,

and that until such ships, vessels, persons, goods, and merchandizes
shall have respectively performed and been discharged from such
quarantine, pursuant to the provisions of this Act, it shall and may be
lawful for any such persons, goods, or merchandizes, or any of them,
to come or be brought on shore, or to go or be put on board any other
ship or vessel in any place in Ireland, in such cases, and by such licence,
as shall or may be directed or permitted by any order or orders to be
made by the lord lieutenant, *or other chief governor or governors of
Ireland,*¹ by the advice and consent of the privy council there, and
notified as aforesaid,

and that all such ships and vessels, and the persons or goods coming
or imported in or going and being put on board such ships or vessels,

¹ Enacting words and the word "that" before "such vessel" were repealed by 51 & 52 Vict., c. 57 (S. L. R.) The words in italics were repealed (U. K.) by 53 & 54 Vict., c. 33 (S. L. R.)

² The words "his heirs and successors" were repealed (U. K.) by 53 & 54 Vict., c. 33 (S. L. R.)

³ The words "or their" occurring twice were repealed (U. K.) by 53 & 54 Vict., c. 33 (S. L. R.)

and all ships, vessels, boats, and persons receiving any goods or persons out of the same, and all persons going on board any such ship or vessels, shall be subject to such orders, rules, and directions, concerning quarantine and the preventing infection, as shall be made from time to time by the lord lieutenant *or other chief governor or governors of Ireland*¹ in council, and shall be notified by proclamation as aforesaid, in pursuance of the provisions contained in this Act,

and that the publication in the Dublin Gazette of any order or orders of the lord lieutenant *or other chief governor or governors*¹ and council, made in pursuance of this Act, shall be deemed and taken to be sufficient notice, to all persons concerned, of all matters contained in any such order or orders respectively

5 And whereas certain sorts of goods and merchandize are more especially liable to retain infection, and may be brought from places infected into other countries, and from thence imported into the United Kingdom, or the islands aforesaid

Be it enacted, that all such goods and merchandize as shall be particularly specified for that purpose in any order or orders made by his Majesty, * * * *² in council, concerning quarantine and the prevention of infection as aforesaid, which shall be brought or imported into any port or place in the United Kingdom, or the islands aforesaid, from any foreign country or place, in any vessel whatever, and the vessels in which the same shall be brought, and also all vessels which shall arrive from any port or place whatever, under any alarming or suspicious circumstances as to infection, shall be subject and liable to such regulations and restrictions as shall be made by such order or orders of his Majesty, * * * *² in council as aforesaid, respecting the same

Goods specified in any order of council and the vessels bringing the same shall be subject to quarantine, as also all vessels arriving from any port under suspicious circumstances as to infection.

6 * * * *³ it shall and may be lawful for the lords and others of his Majesty's privy council, or any two or more of them, to make such order as they shall see necessary and expedient upon any unforeseen emergency, or in any particular case or cases, with respect to any vessel arriving and having any infectious disease or distemper on board, or on board of which any infectious disease or distemper may have appeared in the course of the voyage, or arriving under any other alarming or suspicious circumstances as to infection, although such vessels shall not have come from any place from which his Majesty, * * * *² by and with the advice of his privy council, may have adjudged and declared it probable that the plague or any such infectious disease or distemper may be brought, and also with respect to the persons, goods, wares, and merchandize, and other articles as aforesaid on board the same,

The privy council may make such order as they shall think necessary upon emergencies,

¹ The words in italics were repealed (U K) by 53 & 54 Vict, c 33 (S L R)

² The words "his heirs or successors" were repealed (U K) by 53 & 54 Vict, c 33 (S L R)

³ Enacting words repealed, 51 & 52 Vict, c 57 (S L R)

and in case of any infectious disease or distemper appearing or breaking out in the United Kingdom, or the islands aforesaid, to make such orders and give such direction, in order to cut off all communication between any persons infected with any such disease or distemper and the rest of his Majesty's subjects, as shall appear to the said lords or others of his Majesty's privy council, or any two or more of them, to be necessary and expedient for that purpose,

also orders
for shortening
the time of
quarantine or
for discharge
therefrom.

and likewise to make such orders as they shall see fit for shortening the time of quarantine to be performed by particular vessels or particular persons, goods, wares, merchandize, or any other articles, or for absolutely or conditionally releasing them or any of them from quarantine,

and all such orders so made by the lords or others of the privy council or any two or more of them as aforesaid, shall be as good, valid, and effectual, to all intents and purposes, as well with respect to the commander, master, or other person having the charge of any vessel, and all other persons on board the same, as with respect to any other persons having any intercourse or communication with them, and to the penalties, forfeitures, and punishments to which they may respectively become liable, as any order or orders made by his Majesty,¹ * * * * by and with the advice of his² * * * privy council concerning quarantine, notified by proclamation or published in the London Gazette

u tions
vessels in
which infec
tion shall
appear within
or without
the Straights
of Gibraltar.

7 * * * *³ if the plague, or such other infectious disease or distemper as aforesaid, shall appear on board any vessel, within or without the Straights of Gibraltar, then the commander, master, or other person having the charge or command thereof shall immediately proceed to such place as his Majesty,¹ * * * * by and with the advice of his² * * * privy council, shall from time to time direct and appoint, where being arrived, he shall make known his case to some officer of the customs there who shall with all possible speed send intelligence thereof to the commissioners of the customs in the port of London, to the end that such precautions may be used to prevent the spreading of the infection, as the case shall require;

and the said vessel shall there remain until directions shall be given thereto by the lords or others of his Majesty's privy council, or any two or more of them, nor shall any of the crew or passengers on board thereof go on shore;

and such master and every other person on board such vessel shall obey such directions as he shall receive from the lords and others of his Majesty's privy council, or any two or more of them as aforesaid,

¹ The words "his heirs or successors" were repealed (U K) by 53 & 54 Vict, c 33 (S L R)

² The words "or their" were repealed (U K) by 53 & 54 Vict, c 33 (S L R)

³ Fracting words repealed, 51 & 52 Vict, c 57 (S L R)

and the said commander, master, or any other person on board such vessel as aforesaid, who shall not act conformably to the provisions and regulations herein directed, or shall act in disobedience to such directions as shall be received on board such vessel from the lords or others of the privy council, or any two or more of them as aforesaid, shall forfeit the sum of one hundred pounds

8 * * * *¹ every commander, master, or other person, Masters of vessels liable to quarantine, shall be and is hereby required, at all times when such vessel shall meet to make signals on meeting other vessels at sea, or while within two leagues of the coast of the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, to hoist a signal to denote that his vessel is liable to the performance of quarantine, which signal shall², in the day-time, if the said vessel shall have a clean bill of health, a large yellow flag, of six breadths of bunting, at the main top mast-head, and if such vessel shall not have a clean bill of health, then a like yellow flag, with a circular mark or ball, entirely black, in the middle thereof, whose diameter shall be equal to two breadths of bunting, etc., on penalty of 100l

and in the night-time the signal shall in both cases be a large signal lantern, with a light therein (such as is commonly used on board his Majesty's ships of war), at the same mast-head,

and such commander, master, or other person shall keep such signals respectively, as the case shall be, hoisted during such time as the said vessel shall continue within sight of such other vessel, or within two leagues of the said coasts or islands, and while so in sight, or within such distance, until such vessel so liable to quarantine as aforesaid shall have arrived at the port or place where it is to perform quarantine, and until it shall have been legally discharged from the performance thereof,

on failure whereof such commander, master, or other person, having charge of such ship or vessel so liable to the performance of quarantine

of yellow and black, borne quarterly, of eight breadths of bunting, at the maintop mast-head,

and in the night-time, the signal shall be two large signal lanthorns, such as are commonly used on board of his Majesty's ships of war, one over the other, at the same mast-head,

and such commander, master, or other person shall keep such signal hoisted during such time as the said vessel so having the plague or such other infectious disease or distemper as aforesaid on board thereof shall continue within sight of such other vessel, or within two leagues of the coasts or islands aforesaid, while so in sight or within such distance, until such vessel so having the plague or such other infectious disease or distemper as aforesaid on board thereof shall have arrived at the port or place where it is to perform quarantine, and until it shall have been legally discharged from the performance thereof,

on failure thereof such commander, master, or other person having charge of such vessel shall forfeit and pay for every such offence the sum of one hundred pounds

10. * * * *¹ if any commander, master, or other person, having the charge or command of any vessel, and knowing that the same is not liable to the performance of quarantine, shall hoist such signal as aforesaid, or either of them, by day or night respectively, such commander or other person as aforesaid shall forfeit and pay the sum of fifty pounds

11. * * * *² every commander, master, or other person, having the charge of any vessel coming from foreign parts, shall give to the pilot who shall go on board such vessel a written paper, containing a true account of the names of the place and country at which such vessel shall have loaded, and also of all the places at which any such vessel shall have touched, on the homeward voyage, on pain of forfeiting the sum of one hundred pounds for any neglect or refusal to give such paper, or for any false representation or wilful omission therein,

and if by any proclamation or order of his Majesty in council, made after the departure of any vessel from the United Kingdom and the said islands, and then in force, vessels coming from any place mentioned in any such paper shall be liable to the performance of quarantine, such pilot shall immediately give notice thereof to the commander, or other person aforesaid, of such vessel on pain of forfeiting the sum of one hundred pounds for any neglect therein,

and such commander or other person shall thereupon hoist a proper signal, according to the provisions of this Act, and under the penalties in this Act contained for any neglect or refusal in respect of hoisting such signals

¹ Enacting words repealed, 51 & 52 Vict, c 57 (S L R)

² Enacting words and words indicating commencement of section as regards vessels coming from different places were repealed by 51 & 52 Vict, c 57 (S L R)

Penalty on persons hoisting signals when not liable, 507

masters of vessels, on their arrival from foreign parts, to give to the pilots an account of the places at which they shall have loaded and touched. Pilots to give notice of proclamation or order in council requiring performance of quarantine

Master thereupon to hoist the proper signal

12. * * * *¹ every commander, master, or other person, Master to
 having the charge of any vessel coming from foreign parts which shall give notice of
 not be liable to quarantine in respect of the place from whence such articles on
 vessel comes, shall give to the pilot who shall go on board of such vessel board, on
 a written paper, containing a true account of the different articles com- penalty of
 posing the cargo of such vessel, on pain of forfeiting the sum of fifty 50*l*, and
 pounds for any neglect or refusal to give such paper, or for any false pilot to give
 representation or wilful omission therein, notice if any
 of them are
 liable to
 quarantine,
 on penalty of
 100*l*

and if by any proclamation or order of his Majesty in council then
 in force vessels having on board any of the articles mentioned in such
 paper shall be liable to the performance of quarantine, such pilot shall
 immediately give notice thereof to the commander or other person hav-
 ing the charge of such vessel, on pain of forfeiting one hundred pounds
 for any neglect therein, and such commander or other person shall Master there-
 thereupon hoist a signal, according to the provisions and under the upon to hoist
 the proper
 signal
 respective penalties in this Act contained for any neglect or refusal in
 respect of hoisting such signals,

and in case any pilot shall bring or cause to be brought or con- Penalty on
 ducted any vessel liable to the performance of quarantine into any place pilots con
 which is not or shall not be specially appointed for the reception of ducting
 vessels so liable after receiving such paper as aforesaid, whereby it shall vessels liable
 have been made it appear that such vessel was liable to the performance to quarantine
 of quarantine, or without requiring and receiving such paper as afore- to any other
 said, unless compelled thereto by stress of weather, adverse winds, or place than
 accidents of the sea, such pilot shall for every such offence forfeit and that appoint
 pay the sum of two hundred pounds ed for their
 reception
 after receiv-
 ing notice, or
 not requiring
 notice, 200*l*

13. * * * *¹ if any pilot being on board, or any com- Pilot, etc.,
 mander, master, or other person having the charge, of any vessel com- to bring to
 ing from foreign parts, whether such vessel shall be liable to quarantine at request
 or not, shall be required by any officer of the customs, authorized to act of officer of
 in the service of quarantine, to bring to such vessel, to the end that the customs, on
 commander, master, or other person having the charge thereof may be penalty of
 100*l*
 interrogated, according to the provisions of this Act, and shall neglect
 or refuse to bring to such vessel, as soon as it can be done with safety,
 in obedience to such requisition, every such pilot, commander, master,
 or other person having the charge of any such vessel shall for every
 such offence forfeit and pay the sum of one hundred pounds

14 [Recital Rep (U K) 53 & 54 Vict, c 51 (S L R)] When Power to
 any country or place shall be known or suspected to be infected with the superinten-
 plague or other infectious disease or distemper as aforesaid, or when any dents of
 order or orders shall be made by his Majesty in council concerning ports, or
 quarantine and the prevention of infection as aforesaid, officers of
 customs, to
 inquire
 whether

¹ Enacting words repealed, 51 & 52 Vict, c 57 (S L R)

vessels entering any port be actually infected or liable to order touching quarantine

then and in such case, as often as any vessel shall attempt to enter into any port or place in the United Kingdom, or of the isles of Guernsey, Jersey, Alderney, Sark, or Man, whether such port shall have been appointed for the performance of quarantine or not, the superintendent or assistant at such port or place, or if not, the principal officer of his Majesty's customs at such port or place, or such officer of the customs as shall be authorized to act in that behalf, shall go off to such vessel, and shall, at a convenient distance from such vessel, demand of the commander, master, or other person having charge of such vessel, and such commander, master, or other person shall, upon such demand, give a true answer in writing or otherwise, and upon oath or not upon oath, according as he shall by such superintendent or his assistant, or other officer of the customs authorized as aforesaid, be required, to all such questions or interrogatories as shall be put to him by virtue and in pursuance of such regulations and directions as his Majesty by order in council shall be pleased to prescribe,

Masters of vessels refusing to answer interrogatories, etc., to forfeit 20*l*

and in case such commander or master or other person having charge of such vessel shall, upon such demand made as aforesaid, refuse to make a true discovery in any of the particulars concerning which he shall be interrogated in manner aforesaid, or, in case he shall not be required to answer such questions or interrogatories upon oath, shall give a false answer to any such question or interrogatory as aforesaid, such commander, master, or other person having charge of such vessel for every such offence shall forfeit and pay the sum of two hundred pounds

Vessels subject to quarantine arriving at any other port than that at which it ought to be performed, may be forced to repair to the appointed place

15. * * * *¹ in case it shall appear, upon such examination or otherwise, that such vessel is under such circumstances as shall render it liable to perform quarantine, and that the port or place where it so arrived, or at which it attempts to enter as aforesaid, is not the port or place where it ought to perform quarantine, in which case it shall and may be lawful to and for the officers of any of his Majesty's ships of war, or of any of his Majesty's forts or garrisons, and all other his Majesty's officers, upon notice thereof given to them or any of them respectively, and to and for any other person or persons whom they shall call to their aid and assistance, and such officers and other persons are hereby required, to oblige such vessel to go and repair to such place as hath been or shall be appointed for performance of quarantine, and to use all necessary means for that purpose, either by firing of guns upon such vessel, or by any other kind of necessary force whatsoever,

Masters of vessels that have touched at infected places, etc.,

and in case any such vessel shall come from or shall have touched at any place infected by the plague or such other infectious disease or distemper as aforesaid, or shall have any person on board actually infected with the plague or other such infectious disease or distemper as

¹ Enacting words repealed, 51 & 52 Vict., c. 57 (S. L. R.)

aforesaid and the commander, master, or other person having charge of such vessel knowing that the place from whence he came or at which he had touched as aforesaid was infected with the plague or such other infectious disease or distemper, or knowing some person on board to be actually infected with the plague or such other infectious disease or distemper as aforesaid, shall refuse or omit to disclose the same upon such examination as aforesaid, or shall wilfully omit to hoist the signal herein-before directed, to denote that his vessel is liable to the performance of quarantine, at the times and on the occasions herein directed with respect to the same, such commander, master, or other person having charge of such vessel shall forfeit the sum of three hundred pounds

16. * * * *¹ every commander, master, or other person having charge of any vessel which shall be ordered to perform quarantine as aforesaid, shall forthwith, after his arrival at the place appointed,

they are discharged from quarantine, may be forced to return, and shall be liable to imprisonment for six months, and to forfeit 300*l*

in any port or place in the United Kingdom, or the islands aforesaid, or by going on board any other vessel or boat, with intent to go on shore as aforesaid before such vessel so liable to quarantine as aforesaid shall be regularly discharged from the performance thereof, it shall and may be lawful for any person whatsoever, by any kind of necessary force, to compel such pilot or other person so quitting such vessel so liable to quarantine to return on board the same,

and every such pilot or other person so quitting such vessel so liable to quarantine shall for every such offence suffer imprisonment for the space of six months, and shall forfeit and pay the sum of three hundred pounds

18 And whereas disobedience or refractory behaviour in persons under quarantine or liable to the performance of quarantine, or in other persons who may have had any intercourse or communication with them, may be attended with very great danger to his Majesty's subjects

Persons under or liable to quarantine, or persons having intercourse with them, shall be subject to the orders of the superintendent of quarantine or the principal officer of customs, and may be compelled to obey their orders

Be it further enacted, that all persons liable to perform quarantine, and all persons having had any intercourse or communication with them, whether in vessels or in a lazaret or elsewhere, shall be subject, during the said quarantine, or during the time they shall be liable to quarantine, to such orders as they shall receive from the superintendent of quarantine, or his assistant, or from the principal officer of the customs at any port or place where there is no such superintendent or assistant, or from any other officer of the customs authorized to act in that behalf, and the said officers are hereby empowered and required to enforce all necessary obedience to the said orders, and in case of necessity to call in others to their assistance, and all persons so called in are hereby required to assist accordingly,

and such officers shall and they are hereby empowered and required to compel all persons liable to perform quarantine as aforesaid, and persons having had any intercourse or communication with them, to repair to such lazaret, vessel, or place, and to cause all goods, wares, and merchandize, and other articles, comprized within any such orders to be made as last aforesaid, to be conveyed to such lazaret, vessel, or place, duly appointed in that behalf, in such manner and according to such directions as shall be made by order of his Majesty in council as aforesaid, or of the lords or others of the privy council or of any two or more of them,

and if any person or persons liable to perform quarantine as aforesaid or any person or persons having had any intercourse or communication with him, her, or them, shall wilfully refuse or neglect to repair forthwith, when required and directed so to do by such officers as aforesaid, to the said lazaret, vessel, or place duly appointed in that behalf, or having been placed in the said lazaret, vessel, or place, shall escape or attempt to escape out of the same before quarantine duly performed, it shall and may be lawful to and for the said quarantine officers, and also

the watchmen and other persons appointed to see quarantine performed, and each of them, and they are hereby respectively required, by such necessary force as the case shall require, to compel every such person so refusing or neglecting as aforesaid, and every such person so escaping or attempting to escape as aforesaid, to repair or return to such lazaret, vessel, or place so appointed as aforesaid,

and every person so refusing or neglecting to repair forthwith as aforesaid to the said lazaret, vessel, or place, and also every person actually escaping as aforesaid, shall forfeit the penalty of two hundred pounds

Persons refusing to repair to the lazaret or vessels, or escaping, to forfeit 200*l*

19. * * * * it shall be lawful for any constable, headborough, tithingman, or other peace officer or any other person, to seize and apprehend any person that shall, contrary to the provisions of this Act, have quitted or come on shore from any vessel liable to perform quarantine, or who shall have escaped from or quitted any vessel under quarantine or from any lazaret vessel, or place appointed in that behalf, for the purpose of carrying such person before any justice of the peace or magistrate,

Persons quitting vessels liable to perform quarantine, etc., may be arrested, and may by order of a justice be conveyed to the vessel, etc., or kept in custody till properly disposed of

and it shall be lawful for any such justice of the peace or magistrate to grant his warrant for the apprehending and conveying of any such person to the vessel from which he or she shall have come on shore, or to any vessel performing quarantine, or lazaret, from which he or she shall have escaped, or for the confining of any such person in any such place of safe custody (not being a public gaol), and under such restrictions as to having any communication with any other persons, as may in the discretion of any justice of the peace or magistrate (calling to his aid, if he shall see fit, any medical person) appear to be proper, until such person can be safely and securely conveyed to some place appointed for the performance of quarantine, or until directions can be obtained from the privy council as to the disposal of any such person, and to make any further order or grant any further warrant that may be necessary in that behalf

20 And whereas it may be necessary for the public security to prevent all communication whatever with vessels performing quarantine

Be it therefore further enacted, that it shall and may be lawful to and for his Majesty, ^{2*} * * * * by his ^{3*} * order or orders in council, notified by proclamation or published in the London Gazette, to prohibit all persons, vessels, and boats, whatsoever from going, under any pretence whatsoever, within the limits of any station which by any order or orders in council as aforesaid has been or may be assigned for the performance of quarantine,

Intercourse with stations allotted for quarantine of vessels may be prohibited by order in council

¹ Enacting words repealed, 51 & 52 Vict., c 57 (S L R)

^{2, 3} The words "his heirs or successors" and "or their" were repealed (U K) by 53 & 54 Vict., c 33 (S L R)

and if any person whatsoever, after such notification or publication of any such order or orders in council, shall presume, under any pretence whatsoever, to go with any vessel or boat within the limits of any such station, he or she shall for every such offence forfeit and pay the sum of two hundred pounds

Penalty on persons embezzling goods performing quarantine, neglecting or deserting their duty, or permitting persons, vessels, etc., to depart without authority, or giving false certificates or damaging goods.

21. * * * *¹ if any officer of his Majesty's customs, or any other officer or person whatsoever, to whom it doth or shall appertain to execute any order or orders made or to be made concerning quarantine, or the prevention of infection, and notified as aforesaid, or to see the same put in execution, shall knowingly and wilfully embezzle any goods or articles performing quarantine, or be guilty of any other breach or neglect of his duty in respect of the vessels, persons, goods, or articles performing quarantine, every such officer or person so offending shall forfeit such office or employment as he may be possessed of, and shall become from thence incapable to hold or enjoy the same, or to take a new grant thereof,

and every such officer and person shall forfeit and pay the sum of two hundred pounds,

and if any such officer or person shall desert from his duty when employed as aforesaid, or shall knowingly and willingly permit any person, vessel, goods, or merchandize to depart or be conveyed out of the said lazaret, vessel, or other place as aforesaid, unless by permission under an order of his Majesty, by and with the advice of his privy council or under an order of two or more of the lords or others of his privy council,

or if any person hereby authorized and directed to give a certificate of a vessel having duly performed quarantine or airing shall knowingly give a false certificate thereof,

every such person so offending shall be guilty of felony,

and if any such officer or person shall knowingly or wilfully damage any goods performing quarantine under his direction, he shall be liable to pay one hundred pounds damages and full costs of suit to the owner of the same

Vessels from the Mediterranean, Turkey, or Africa, having undergone examination and been released from quarantine, to be admitted to entry upon

22. * * * *¹ if any vessel arriving from the Mediterranean, or from any port in Turkey or Africa, shall have undergone examination by the proper officer of quarantine, and upon a report of such examination being made to the lords or others of his Majesty's privy council, their lordships shall think proper to direct the release of such vessel from the performance of quarantine, it shall be lawful for such officer, and he is hereby required, to grant to the master or person having the charge or command of such vessel, a certificate in writing of such examination and release, and upon the production of such certi-

¹ Enacting words repealed, 51 & 52 Vict., c. 57 (S. L. R.)

ificate to the collector or principal officer of his Majesty's customs, at any port in the United Kingdom, such vessel shall be admitted to entry without being liable to any further restraint

producing a certificate thereof.

23 * * * *¹ after quarantine shall have been duly performed by any vessel, person or persons obliged to perform quarantine as aforesaid, according to this Act, and to such order or orders made as aforesaid, and upon proof to be made by the oaths of the master or other person having charge of such vessel, and of three or more of the persons belonging thereto, or upon proof to be made by the oaths of two or more credible witnesses before the collector or principal officer of the customs at the port where such quarantine shall be performed, or at the port nearest thereto, or before the superintendent of quarantine, or his assistant at the quarantine station, or before any justice of the peace living near to the port or place, or when such quarantine shall have been performed within any of the said isles of Guernsey, Jersey, Alderney, Sark, or Man, before any two jurats or magistrates of any of the said isles respectively, that such vessel, and all and every such person and persons respectively, have duly performed quarantine as aforesaid, and that the vessel and all and every person and persons are free from infection, and after producing a certificate to that purpose, signed by the chief officer who superintended the quarantine of the said vessel, or person acting for him,

After proof of performance of quarantine, and proper certificate to that effect, vessels or persons shall not be liable to further detention.

then and in the said respective cases such collector or principal officer of the customs, or the superintendent of quarantine, or his assistant, or such justice of the peace, or such jurats or magistrates as aforesaid, respectively, are hereby required to give a certificate thereof, and thereupon such vessel, and all and every such person or persons so having performed quarantine, shall be liable to no further restraint or detention upon the same account, for which such vessel, person or persons shall have performed quarantine as aforesaid

24. * * * *¹ all goods, wares, and merchandize, and other articles liable to quarantine as aforesaid, shall be opened and aired in such place or places, and for such time, and in such manner, as shall be directed by his Majesty,² * * * * by such order or orders to be made as aforesaid, and after such orders shall have been duly complied with, proof thereof shall be made by the oaths of the master of the lazaret or vessel in which the goods, wares, and merchandize, and all other articles shall have been opened and aired, and of one of the guardians, or if there be no guardians, then one of the officers authorized by the commissioners of customs to act in the service of quarantine in such lazaret or vessel, or if there be no such officer, then by the oaths of two or more credible witnesses serving in the said lazaret or vessel, before

Goods liable to perform quarantine shall be opened and aired as directed by order in council, and proof thereof made,

¹ Enacting words repealed 51 & 52 Vict, c 57 (S L R)

² The words "his heirs and successors" were repealed (U K) by 53 & 54 Vict, c 33 (S L R)

the superintendent of quarantine or his assistant, in case such opening and unloading shall be had at a port or place where such superintendent or assistant shall be established, or otherwise before the principal officer of the customs authorized to act in the service of quarantine at such port or place, which oath such superintendent, assistant, or principal officer is hereby authorized to administer,

and a certificate
granted, etc

and such superintendent, assistant, or principal officer, as the case may be, shall grant a certificate of such proof having been made, and upon production of such certificate to the proper officer of the customs, such goods, wares, and merchandizes, and other articles shall be liable to no further restraint or detention, either at the port or place where such quarantine shall have been performed, or at any other place whereto they be afterwards conveyed

Persons forging or uttering false certificates required by order in council, guilty of felony

25 * * * *¹ if any person shall knowingly or wilfully forge or counterfeit, interline, erase, or alter, or procure to be forged or counterfeited, interlined, erased, or altered, any certificate directed or required to be granted by any order of his Majesty, ²* * * * in council, now in force or hereafter to be made touching quarantine, or shall publish any such forged or counterfeited, interlined, erased, or altered certificate, knowing the same to be forged or counterfeited, interlined, erased, or altered, or shall knowingly and wilfully utter and publish any such certificate with intent to obtain the effect of a true certificate to be given thereto, knowing the contents of such certificate to be false, he or she shall be guilty of felony

Penalty on persons landing goods, etc, from vessels liable to perform quarantine, or receiving them, 500*l*, or persons secreting them for conveyance from vessels performing quarantine, 100*l*

26 * * * *¹ if any person shall land or unship, or shall move in order to the landing or unshipping thereof, any goods, wares, or merchandize, packets, packages, baggage, wearing apparel, books, letters, or other articles, from on board any vessel liable to perform quarantine as aforesaid, or shall knowingly receive the same after they have been so landed or unshipped, every such person shall forfeit and pay the sum of five hundred pounds,

and if any person or persons shall clandestinely convey, or secrete or conceal for the purpose of conveying, any letters, goods, wares, or merchandize, or other articles as aforesaid, from any vessel actually performing quarantine, or from the lazaret or other place where such goods, wares, merchandize, or other articles as aforesaid shall be performing quarantine, every such person so offending as last aforesaid shall forfeit the sum of one hundred pounds

His Majesty in certain cases may, by proclamation, prohibit

27. * * * *¹ in case it shall at any time happen that any part of the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, or France, Spain, or Portugal, or the low countries,

¹ Enacting words repealed, 51 & 52 Vict, c 57 (S L R)

² The words "his heirs or successors" were repealed (U K), by 53 & 54 Vict, c 33 (S L R)

swearing
falsely or
procuring
others so to
do shall be
deemed
guilty of
perjury, etc

be authorized and required to take such examinations and answers shall and may be deemed to have full power and authority to administer such oaths,

and if any person who shall be interrogated or examined shall wilfully sewar falsely to any matter concerning which such person shall depose or make oath on such examination, or in such answer, or if any person shall procure any other person so to do, he or she so swearing falsely, or procuring any other person so to do, shall be deemed to have been guilty of and shall be liable to be prosecuted for perjury or subornation of perjury, as the case may be, and shall suffer the pains, penalties, and punishments of the law in such case respectively made and provided

Superinten-
dents at ports
to be ap-
pointed by
commission-
ers of cus-
toms
Principal
officer of
customs may
act in
absence, etc,
of superin-
tendent.
Publication
in the
London
Gazette of
orders in
council, etc,
sufficient
notice.
Recovery and
application of
penalties

30. * * * *¹ all superintendents of quarantine at the several ports, and their assistants, shall and may be appointed by any instrument signed by the commissioners of customs for the time being, and everything required to be done and performed by the superintendent of quarantine, or his assistant, may, in case of the absence or sickness of such superintendent or assistant, be done and performed by such principal officer of the customs as shall be authorized to act in that behalf

31 * * * *¹ the publication in the London Gazette of any order in council, or of any order by any two or more of the lords or others of his Majesty's privy council, made in pursuance of this Act, or his Majesty's royal proclamation made in pursuance of the same, shall be deemed and taken to be sufficient notice to all persons concerned of all matters therein respectively contained

32 * * * *¹ all forfeitures and penalties that shall be incurred by reason of any offence committed against this Act shall and may be recovered by suit in any of his Majesty's courts of record in England or Ireland, ²* * * *³, or in Scotland, by summary action in the Court of Session, or by prosecution before the Court of Justiciary there, or by suit in any of his Majesty's courts in the islands of Guernsey, Jersey, Alderney, Sark, or Man,

and every such forfeiture and penalty shall belong and be given, two-thirds to the person who shall inform and sue for the same, and the remainder to his Majesty, ³* * * *

In whose
name actions
for penalties

33. Provided always * * * *¹ that it shall not be lawful for any person or persons whatsoever to commence, prosecute, enter, or

¹ Enacting words repealed 51 & 52 Vict, c 57 (S L R)

² The words " in which no assign or wager of law or more than one imparlance shall be granted " were repealed (U K) by 53 & 54 Vict, c 33 (S L R)

³ The words " his heirs and successors " were repealed (U K) by 53 & 54 Vict, c 33 (S L R)

justices, who
may fine
or imprison

and if any person shall be convicted of any such offence or disobedience, he or she shall be liable to such forfeiture and penalty, not exceeding the sum of five hundred pounds for any offence, or to such imprisonment, not exceeding twelve months for any one offence, as shall in the discretion of the three justices who shall have heard and determined the same be judged proper,

Application
of penalties.

and such forfeiture and penalty shall be paid, two-thirds to the person suing for the same, and the remainder to his Majesty, to be applied as the proceeds of other forfeitures and penalties are hereinbefore directed to be applied

In prosecu-
tions, etc ,
answers of
persons hav-
ing the
charge of
vessels shall
be received as
evidence so
far as relates
from which
vessels came
or at which
they touched,
and they
having been
directed to
perform qua-
rantine shall
be received
as evidence
that vessels
were liable,
unless in
either case
proof be
made to the
contrary, and
a vessel's
being put
under qua-
rantine shall
be proof of
such vessel
being liable
to perform it

36 * * * *¹ in any prosecution, suit, or other proceedings against any person or persons whatsoever, for any offence against this Act, or any Act which may hereafter be passed concerning quarantine, or for any breach or disobedience of any order or orders which shall be made by his Majesty, ²* * * *, with the advice of his privy council, concerning quarantine and the prevention of infection, and notified or published as aforesaid, or of any order or orders made by two or more of the lords or others of the privy council as aforesaid, the answer or answers of the commander, master, or other person, having charge of any vessel, to any question or interrogatories put to him by virtue and in pursuance of this Act, or of any Act which may hereafter be passed concerning quarantine, or of any such order or orders as aforesaid, may and shall be given and received as evidence, so far as the same relates or relate to the place from which such vessel shall come, or to the place or places at which such vessel touched in the course of the voyage,

and where any vessel shall have been directed to perform quarantine by the superintendent of quarantine or his assistant, or, where there is no such superintendent or assistant, by the principal officer of the customs at any port or place, or other officer of the customs authorized to act in that behalf they having been so directed to perform quarantine may and shall be given and received as evidence that such vessel was liable to quarantine, unless satisfactory proof shall be produced by the defendant in any such prosecution, suit, or other proceeding, to show that the vessel did not come from or touch at any such place or places as is or are stated in the said answer or answers, or that such vessel, although directed to perform quarantine, was not liable to the performance thereof, and where any such vessel shall have in fact been put under quarantine at any port or place by the superintendent of quarantine or his assistant, or other officer of the customs authorized as aforesaid to act in that behalf, and shall actually be performing the

¹ Enacting words repealed, 51 & 52 Vict, c 57 (S L R)

² The words "his heirs or successors" were repealed (U K) by 53 & 54 Vict, c 33 (S L R)

same, such vessel shall in any prosecution, suit, or other proceeding, against any person or persons whatever, for any offence against this Act or any other Act which may hereafter be passed concerning quarantine and the prevention of infection, or any order or orders which shall be made by his Majesty in council, or any two or more of the lords or others of his privy council as aforesaid, be deemed and taken to be liable to quarantine, without proving in what manner or from what circumstance such vessel became liable to the performance thereof

37. [*Rep as to U K 56 & 57 Vict, c 61 Omitted as being in-applicable to India*]

THE INDIAN SALARIES AND PENSIONS ACT, 1825

(6 Geo. 4, c. 85)

An Act for further regulating the Payment of the Salaries and Pensions to the Judges of His Majesty's Courts in India and the Bishop of Calcutta 1* * *

[5th July, 1825]

[*Preamble recites establishment of supreme courts of judicature at Fort William in Bengal under 13 Geo 3, c 63, at Madras under 39 & 40 Geo 3, c 79, and at Bombay under 37 Geo 3, c 142*]

[*Whole Act, except ss 4, 5, 15, rep 53 & 54 Vict, c 33 (S L R), s 6 rep also as to B I by XIV of 1870, s 1 and sch*]

4 * * * *² when and as often as it shall happen that in consequence of the vacancy of the office of chief justice in any of the said supreme courts of judicature at Fort William in Bengal, or at Madras or Bombay, respectively, one of the puisne judges of the said courts respectively shall preside for and exercise the office of such chief justice, such puisne judge so acting as chief justice during a vacancy,

Judge executing the office of chief justice at Fort William, Madras, or Bombay to be entitled to salary of chief justice

¹ Rest of the title was repealed by 51 & 52 Vict, c 57 (S L R), and by 53 and 54 Vict, c 33 (S L R)

² Enacting words repealed, 51 & 52 Vict, c 57 (S L R)

and until the arrival of the person appointed to succeed to the office of chief justice, shall be entitled to receive, in lieu of his proportion of salary as a puisne judge of such court, such a proportion of salary (and no more) as would have become due to such chief justice during the period while the vacancy shall be supplied by such puisne judge as aforesaid, * * * * *

Provision for
payment of
one year's
salary to
representa-
tives of any
judge or
bishop etc.,
who shall die
either during
his voyage,
or within six
months after
his arrival,
etc;

5 * * * * * 2 when and as often as it shall hereafter happen, that any chief justice or puisne judge of any of the said supreme courts of judicature at Fort William in Bengal, Madras, or Bombay, * * * 3 or any bishop of Calcutta, 4* * * * shall hereafter depart this life, either during the voyage to India or within six calendar months next after the day when he shall have arrived in India for the purpose of taking upon him the office of such chief justice or puisne judge, * * * 3 or bishop the court of directors of the said united company shall and they are hereby required to pay, or direct and cause to be paid, out of the territorial revenues from which the salary of such chief justice or puisne judge, * * * 3 or bishop, so dying shall be payable to the legal personal representatives of such chief justice or puisne judge, * * * 3 or bishop so dying as aforesaid, such sum or sums of money as shall, together with the sum or sums paid to or drawn by such chief justice or puisne judge, * * * 3 or bishop, in respect of his salary, make up the full amount of one year's salary of the office to which

6 Geo. 4, c. 85.] *The Indian Salaries and Pensions Act, 1825* 165

7 Geo 4, c 56.] *The East India Officers' Act, 1825*

due to such chief justice or puisne judge, * *¹ or bishop respectively at the time of his death, a sum equal to the amount of six calendar months' salary of the office of such chief justice or puisne judge, * *¹ or bishop respectively

15 And whereas under and by virtue of an Act made and passed in the fifty-third year of the reign of his late Majesty King George the Third, and of another Act made and passed in the fourth year of the reign of his present Majesty, provision is made for granting a pension to the bishop of Calcutta, under the limitations therein contained, and it is expedient to make further provision in respect thereof

Be it further enacted, that it shall and may be lawful for his Majesty, * * *² in manner in the said Act of the fifty-third year of the reign of his late Majesty mentioned, to grant to any such bishop, who shall have exercised within the limits of the charter of the said united company the office of bishop of Calcutta for five years, a pension not exceeding one half of the sum which his Majesty, by the said Act of the fifty-third year of the reign of his late Majesty, is empowered to grant to any such bishop, Pension to bishop of Calcutta on resignation.

and also to grant to any such bishop, who shall have exercised within the limits aforesaid the said office of bishop of Calcutta for seven years, a pension not exceeding two-thirds of the sum which his Majesty, by the said Act of the fifty-third year of his late Majesty's reign, is empowered to grant to any such bishop

THE EAST INDIA OFFICERS' ACT, 1826

(7 Geo. 4, c 56.)

An Act to suspend the Provisions of an Act of His late Majesty, respecting the Appointment of Writers in the Service of the East India Company, and to authorize the Payment of the Allowances of the Civil and Military Officers of the said Company dying while absent from India

[26th May, 1826]

[Whole Act, except s 3, rep 36 & 37 Vict, c 91 (S L R)]

3. [Recital of 33 Geo 3, c 52, s 37 in part Rep (U K) 53 & 54 Representa-
Vict, c 51 (S L R)] It shall and may be lawful to and for the said tives of

¹ Words as to Recorder of Prince of Wales' Island have been omitted See repeal, by 41 & 42 Vict, c 79 (S L R)

² The words "his heirs and successors" were repealed by 53 & 54 Vict, c. 33 (S L R)

officers dying during a temporary absence from their stations may receive the salaries to which such officers would have been entitled if they had returned to their stations

company to cause payment to be made to the representatives of officers in their service, civil or military, who having quitted or left their stations, and not having proceeded or intended to proceed to Europe, but intending to return to their stations, have died, or may hereafter happen to die, during their temporary absence, within the limits of the said company's charter, or at the Cape of Good Hope, of such salaries and allowances, or such portion of salaries or allowances, as the officers so dying would have been entitled to if they had returned to their stations

* * * * *

THE CRIMINAL LAW (INDIA) ACT, 1828

(9 Geo. 4, c. 74)

An Act for improving the Administration of Criminal Justice in the East Indies

[25th July, 1828]

[Whole Act, except portions printed, rep 53 & 54 Vict , c 33 (S L R), rep also as to B I by X of 1875, s 2 and sch]

[Preamble]

From the 1st of March, 1829, this Act to take effect throughout the jurisdiction of the King's Courts in the East Indies

1 * * * *¹ This Act * * * *² shall extend to all persons and all places, as well on land as on the high seas, over whom or which the criminal jurisdiction of any of his Majesty's courts of justice erected or to be erected within the British territories under the government of the United Company of Merchants of England trading to the East Indies does or shall hereafter extend

* * * * *

Accessory to felony before the fact may be tried as such as a substantive felony, by any court which has jurisdiction to try the principal felon although the offence be committed on

7. * * * *¹ If any person shall counsel, procure, or command any other person to commit any felony, whether the same be a felony at common law or by virtue of any statute or statutes made or to be made, the person so counselling, procuring, or commanding shall be deemed guilty of felony, and may be indicted and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be

¹ Enacting words repealed, 51 & 52 Vict , c 57 (S L R)

² Words repealed by 53 & 54 Vict , c 33 (S L R), have been omitted

amenable to justice, and may be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished, the seas or abroad

and the offence of the person so counselling, procuring, or commanding howsoever indicted may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if such offence had been committed at the same place as the principal felony, although such offence may have been committed either on the high seas, or at any place on land, whether within his Majesty's dominions or without,

and in case the principal felony and the offence of counselling, procuring, or commanding, shall have been committed in different places, the last-mentioned offence may be inquired of, tried, determined, and punished in any of his Majesty's courts of justice within the British territories under the government of the said United Company having jurisdiction to try either of the said offences If the offences of principal and accessory be committed in different places, accessory may be tried in any of the King's courts in India having jurisdiction

Provided always, that no person who shall be once duly tried for any such offence, whether as any accessory before the fact or as for a substantive felony, shall be liable to be again indicted or tried for the same offence No person to be tried twice for the same offence

8 * * * *¹ if any person shall become an accessory after the fact to any felony, whether the same be a felony at common law, or by virtue of any statute or statutes made or to be made, the offence of such person may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon in the same manner as if the act by reason whereof such person shall have become an accessory had been committed at the same place as the principal felony, although such act may have been committed either on the high seas or at any place on land, whether within his Majesty's dominions or without, Accessory after the fact may be tried by any court which has jurisdiction to try the principal felon.

Accessory
may be
prosecuted
after conviction
of the
principal
though the
principal die
or be pardon-
ed, or deliver-
ed before
attainder

9 * * * *¹ If any principal offender shall be in anywise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall die or be pardoned, or otherwise delivered before attainder,

and every such accessory shall suffer the same punishment if he or she be in anywise convicted as he should have suffered if the principal had been attainted

* * * * *

Admiralty
offences

25 * * * *¹ all offences prosecuted in any of his Majesty's courts of Admiralty shall, upon every first and subsequent conviction, be subject to the same punishments, whether of death or otherwise, as if such offence had been committed upon the land

Rule for in-
terpreting all
criminal
statutes

26 * * * *¹ wherever this or any other statute relating to any offence, whether punishable upon indictment or summary conviction, in describing or referring to the offence or the subject matter thereof or the offender, or the party affected or intended to be affected by the offence, shall use words importing the singular number or the masculine gender only, yet the statute shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction,

and wherever any forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate in every case where such body shall be the party aggrieved

* * * * *

Provision for
the trial of
murder and
manslaughter,
where the
cause of death
only, but not
the death, or
where the
death only,
but not the
cause of
death, hap-
pens within
the limits
of the East
Ind & Com-
pany's
charter

56 * * * *¹ where any person, being feloniously stricken, poisoned, or otherwise hurt at any place whatsoever, either upon the land or at sea, within the limits of the charter of the said United Company, shall die of such stroke, poisoning, or hurt at any place without those limits, or being feloniously stricken, poisoned, or otherwise hurt at any place whatsoever, either upon land or at sea, shall die of such stroke, poisoning, or hurt at any place within the limits aforesaid, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished by any of his Majesty's courts of justice within the British territories under the government of

¹ Enacting words repealed, 51 & 52 Vict, c 57 (S L R)

170 *The Illusory Appointments Act, 1830* [11 Geo. 4 & 1 W. 4, c. 46.]

The Debts Recovery Act, 1830 [11 Geo. 4 & 1 W. 4, c. 47.]

shares to be
appointed,

the amount of the share or shares from which no object of the power shall be excluded

nor to give
any other
force to any
appointment
than the
same would
have had if a
substantial
share had
been
appointed
or left to
devolve as
unappointed

3. Provided also * * * *¹ that nothing in this Act contained shall be construed, deemed, or taken, at law or in equity, to give any other validity, force, or effect, to any appointment, than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to or left unappointed to devolve upon any object of such power

THE DEBTS RECOVERY ACT, 1830

(11 Geo. 4 & 1 Will. 4, c. 47)

An Act for consolidating and amending the Laws for facilitating the payment of Debts out of Real Estate

[16th July, 1830]

to
make convey-
ances under
order of the
court of real
estates direct
ed to be sold
for payment
for debts

11. 2* * * * where any suit hath been or shall be instituted in any court of equity for the payment of any debts of any person or persons deceased, to which their heir or heirs, devisee or devisees, may be subject or liable, and such court of equity shall decree the estates liable to such debts, or any of them, to be sold for satisfaction of such debt or debts, and by reason of the infancy of any such heir or heirs, devisee or devisees, an immediate conveyance thereof cannot, as the law at present stands, be compelled, in every such case such court shall direct, and, if necessary, compel such infant or infants to convey such estates so to be sold (by all proper assurances in the law) to the purchaser or purchasers thereof, and in such manner as the said court shall think proper and direct,

and every such infant shall make such conveyance accordingly,

and every such conveyance shall be as valid and effectual to all intents and purposes as if such person or persons, being an infant or infants, was or were at the time of executing the same of the full age of twenty-one years

¹ Enacting words repealed, 51 & 52 Vict., c. 57 (S. L. R.)

² S. 11 was extended to British India, by Act XXIV of 1841, s. 4. It alone, therefore, is reproduced here. Enacting words were repealed (U. K.) by 51 & 52 Vict., c. 57 (S. L. R.)

THE INFANTS' PROPERTY ACT, 1830 ¹

(11 Geo 4 & 1 Will 4, c. 65.)

An Act for consolidating and amending the Laws relating to property belonging to Infants, Females Covert, Idiots, Lunatics, and persons of unsound Mind

[23rd July, 1830]

[*Preamble Rep (U K) 51 & 52 Vict, c 57 (S L R)*]

1. [*Rep as to U K 36 & 37 Vict, c 91 (S L R) Omitted as being spent*]

2 And inasmuch as, in order to avoid unnecessary repetition, certain words are used in this Act as describing subjects some of which, according to their usual sense, such words would not embrace

for the understanding of the sense attached to them in this Act, Rules for the interpretation of this Act be it further enacted, that the provisions of this Act shall extend and be understood to extend to and include the several other estates, persons, matters, and things herein-after mentioned, (that is to say,) those relating to land, to any manor, messuage, tenement, hereditament, or real property of whatsoever tenure, and to property of every description transferable otherwise than in books kept by any company or society, or any share thereof or charge thereon, or estate or interest therein, those relating to land, to any manor, messuage, tenement, hereditament, or kept by any company or society, or to any money payable for the discharge or redemption thereof, or any share or interest therein, those relating to dividends, to interest or other annual produce, those relating to the Bank of England, to the East India Company, South Sea Company, or any other company or society established or to be established, those relating to a conveyance, to any release, surrender, assignment, or other assurance, including all acts, deeds, and things necessary for making and perfecting the same, those relating to a transfer, to any assignment, payment, or other disposition, and those relating to a lunatic, to any idiot or person of unsound mind or incapable of managing his affairs, unless there be something in the subject or context repugnant to such construction,

and whenever this Act, in describing or referring to any person, or any land, stock, conveyance, lease, recovery, matter, or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several lands, stock, conveyances,

¹ So much of this Act as relates to or affects idiots, lunatics, and persons of unsound mind or their property was repealed, except so far as relates to Ireland, by 16 & c 70, s 1, so far as relates to Ireland by Stat Law Rev Act, 1873 (36 & 37 Vt Extended to British India by Act XXIV of 1841, s 2.

leases, recoveries, matters, or things, as well as one land, stock, conveyance, lease, recovery, matter, or thing, respectively, unless there be something in the subject or context repugnant to such construction

Infants, femes covert, and lunatics may be admitted to copyhold estates by their guardian, committee, or attorney

3 * * * *¹ where any person being under the age of twenty-one years, or being a feme covert or lunatic, is or shall be entitled by descent or surrender to the use of a last will, or otherwise, to be admitted tenant of any copyhold lands, such person in his or her own proper person, or being a feme covert by her attorney, or being an infant by his guardian or attorney, as the case may require, or being a lunatic by the committee of his estate, shall come to and appear at one of the three next courts, which shall be kept (for the keeping whereof the usual notice shall be given) for the manor whereof such land shall be parcel, and shall there offer himself or herself to the lord or his steward to be admitted tenant to the said land, to make which appearance and to take which admittance in behalf of such infant or lunatic, or feme covert, such guardian, committee, or attorney shall be and is hereby respectively authorized and required

Femes covert, infants, etc., may appoint attorneys for that purpose

4 * * * *¹ it shall be lawful for any feme covert, and for any infant who shall have no guardian, and she and he is hereby empowered, by writing under her or his hand and seal respectively, to appoint an attorney or attorneys on her or his behalf, for the purpose of appearing and taking such admittance as aforesaid

In default of appearance, the lord may appoint an attorney

5 * * * *¹ in default of such appearance of any infant, feme covert or lunatic in his or her own person, or by his or her guardian, committee, or attorney in that behalf, and of acceptance of such admittance as aforesaid, it shall be lawful for the lord of every such manor, or his steward, after such three several courts have been duly holden for such manor, and proclamations in such several courts been regularly made, to appoint, at any subsequent court to be holden for such manor, any fit person to be attorney for every such infant, feme covert, or lunatic for that purpose only, and by such attorney to admit every such infant, feme covert, or lunatic to the said land, according to such estate as such infant, feme covert, or lunatic shall be legally entitled to therein, and upon every such admittance to impose and set such fine as might have been legally imposed and set if such infant had been of full age, or if such feme covert had been sole and unmarried, and if such lunatic had been of sane mind

Fines, in what manner demandable

6 * * * *¹ upon every such admittance of any infant, feme covert, or lunatic as aforesaid, the fine imposed and set thereupon shall and may be demanded by the bailiff or agent of the lord of such manor, by a note in writing, signed by the lord of such manor or by his steward, to be left with the guardian of such infant or such

¹ Words repealed (U K) by 51 & 52 Vict, c. 57 (S L R), have been omitted

liable to and shall make satisfaction to the person or persons so kept out of possession for all the damages that he or she shall thereby sustain, and all the costs and charges that he or she shall be put unto for the recovery thereof

Guardians, husbands, or committees, paying fines, may reimburse themselves out of the rents of the copyhold

8. * * * *¹ where any infant, feme covert, or lunatic shall be admitted to any copyhold land, if the guardian of such infant, or husband of such feme covert, or committee of such lunatic, shall pay to the lord of any manor the fine legally imposed and set upon such admittance, and the costs and charges which such lord of such manor shall have been put unto as aforesaid, then it shall be lawful for every guardian of such infant, or husband of such feme covert, or committee of such lunatic, his executors and administrators, to enter into and to hold and enjoy the said land to which such infant, feme covert, or lunatic shall have been so admitted, and receive and take the rents, issues and profits thereof to his and their own use, until thereby such guardian of such infant, or husband of such feme covert, or committee of such lunatic, his executors and administrators, shall be fully satisfied and paid all and every such sum and sums of money as he shall respectively pay and disburse upon the account aforesaid notwithstanding the death of such infants, femes covert, or lunatic shall happen before such sum or sums of money so expended shall or may be so raised and reimbursed

No forfeiture to be incurred by infant, etc., for not appearing, or refusing to pay fines

9 Provided always * * *¹ that from and after the passing of this Act no infant, feme covert, or lunatic shall forfeit any copyhold land for his or her neglect or refusal to come to any court to be kept for any manor whereof such land is parcel, and to be admitted thereto, nor for the omission, denial, or refusal of any such infant, feme covert, or lunatic to pay any fine imposed or set upon his or her admittance to any such land

Fines not warranted by custom, etc., may be controverted

10 Provided nevertheless * * *¹ that if the fine imposed in any of the cases herein-before mentioned shall not be warranted by the custom of the manor or shall be unlawful, then such infant, feme covert, or lunatic shall be at liberty to controvert the legality of such fine, in such manner as he or she might have done if this Act had not been made

11 [*Rep as to U K 37 & 38 Vict, c 35 (S L R)* Omitted as being inapplicable to India]

Guardians of minors etc., in order to the surrender and renewal of leases, may apply to the Court of

12 * * *¹ in all cases where any person, being under the age of twenty-one years, or a feme covert, is or shall become entitled to any lease or leases made or granted or to be made or granted for the life or lives of one or more person or persons, or for any term of years, either absolute or determinable upon the death of one or more person or persons, or otherwise, it shall be lawful for such person under the age

¹ Enacting words repealed (U K.), 51 & 52 Vict, c 57 (S L R)

of twenty-one years, or for his or her guardian or other person on his behalf, and for such feme covert, or any person on her behalf, to apply to the Court of Chancery in England, the courts of equity of the counties palatine of * * *^{*1} Lancaster and Durham, * * *

Chancery,
etc., and
by order may
surrender
such
leases, and
accept renew-
als of the
same

^{*1} respectively, as to land within their respective jurisdiction, by petition or motion in a summary way,

and by the order and direction of the said courts respectively such infant or feme covert, or his guardian, or any person appointed in the place of such infant or feme covert by the said courts respectively, shall and may be enabled from time to time, by deed or deeds, to surrender such lease or leases, and accept and take, in the place and for the benefit of such person under the age of twenty-one years, or feme covert, one or more new lease or leases of the premises comprised in such lease surrendered by virtue of this Act, for and during such number of lives, or for such term or terms of years determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned or contained in the lease or leases so surrendered at the making thereof respectively or otherwise as the said courts shall respectively direct

13 [*Rep as to U K 36 & 37 Vict, c 91 (S L R). Omitted, as being inapplicable to India*]

14. * * *^{*2} every sum of money and other consideration paid by any guardian, trustee, committee, or other person as a fine, premium, or income, or in the nature of a fine, premium, or income, for the renewal of any such lease, and all reasonable charges incident thereto, shall be paid out of the estate or effects of the infant or lunatic for whose benefit the lease shall be renewed, or shall be a charge upon the leasehold premises, together with interest for the same, as the said

Charges
attending
renewal to
be charged on
the estate as
the court
shall direct

by order of
Court of
Chancery
to grant
renewals of
leases

twenty-one years, or a feme covert, might, in pursuance of any covenant or agreement, if not under disability, be compelled to renew any lease made or to be made for the life or lives of one or more person or persons, or for any term or number of years absolute or determinable on the death of one or more person or persons, it shall be lawful to and for such infant, or his guardian in the name of such infant or such feme covert, by the direction of the Court of Chancery, to be signified by an order to be made in a summary way upon the petition of such infant or his guardian, or of such feme covert, or of any person entitled to such renewal, from time to time to accept of a surrender of such lease, and to make and execute a new lease of the premises comprised in such lease, for and during such number of lives, or for such term or terms determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned in the lease so surrendered at the making thereof, or otherwise, as the court by such order shall direct

Court of
Chancery
may au-
thorize leases
to be made of
lands belong-
ing to infants
when it is for
the benefit of
the estate

17. * * * *¹ where any person, being an infant under the age of twenty-one years, is or shall be seised or possessed of or entitled to any land in fee or in tail, or to any leasehold land for an absolute interest, and it shall appear to the Court of Chancery to be for the benefit of such person that a lease or under-lease should be made of such estates for terms of years, for encouraging the erection of buildings thereon, or for repairing buildings actually being thereon, or the working of mines, or otherwise improving the same, or for farming or other purposes, it shall be lawful for such infant, or his guardian in the name of such infant, by the direction of the Court of Chancery, to be signified by an order to be made in a summary way upon the petition of such infant or his guardian, to make such lease of the land of such persons respectively, or any part thereof, according to his or her interest therein respectively, and to the nature of the tenure of such estates respectively, for such term or terms of years and subject to such rents and covenants, as the said Court of Chancery shall direct,

but in no such case shall any fine or premium be taken, and in every such case the best rent that can be obtained, regard being had to the nature of the lease, shall be reserved upon such lease,

and the leases, and covenants and provisions therein, shall be settled and approved of by a master of the said court, and a counterpart of every such lease shall be executed by the lessee or lessees therein to be named, and such counterparts shall be deposited for safe custody in the master's office until such infant shall attain twenty-one, but with liberty to proper parties to have the use thereof, if required, in the meantime, for the purpose of enforcing any of the covenants therein contained

¹ Enacting words repealed (U K), 51 & 52 Vict., c. 57 (S L R)

if such renewal shall be made in the name of any person out of jurisdiction or not amenable as aforesaid, to such person or in such manner, or into the Court of Chancery to such account, and to be applied and disposed of as the said court shall direct, * * * #1

22 [*Rep as to U K 37 & 38 Vict, c 35 (S L R)* Omitted as being inapplicable to India]

23 to 25. [*Rep as to U K 36 & 37 Vict, c 91 (S L R)* Omitted as being spent or inapplicable to India]

Agreements under recited Act may be made by guardians of infants with the approbation of the court on petition

26 * * * #2, the guardian of any infant, with the approbation of the Court of Chancery, to be signified by an order to be made on the petition of such guardian in a summary way, may enter into any agreement for or on behalf of such infant which such guardian might have entered into by virtue of the said last-recited Act, if the same had not been repealed, * * * #1

27 to 30 [*Rep as to U K 36 & 37 Vict, c 91 (S L R)* Omitted as being inapplicable to India]

Surrenders, leases, etc, made under this Act deemed valid

31 * * * #2 every surrender and lease, agreement, conveyance, mortgage, or other disposition respectively, granted and accepted, executed and made, by virtue of this Act, shall be and be deemed as valid and legal to all intents and purposes as if the person by whom, or in whose place, or on whose behalf the same respectively shall be granted or accepted, executed and made, had been of full age, unmarried, or of sane mind, and had granted, accepted, made, and executed the same,

and every such surrender and lease respectively made and accepted by or on behalf of a feme covert shall be valid, without any fine being levied by her

Court of Chancery may, on petition, order dividends of stock belonging to infants to be applied for their maintenance

32 * * * #2 it shall be lawful for the Court of Chancery, by an order to be made on the petition of the guardian of any infant in whose name any stock shall be standing, or any sum of money, by virtue of any Act or paying off any stock, and who shall be beneficially entitled thereto, or if there shall be no guardian, by an order to be made in any cause depending in the said court, to direct all or any part of the dividends due or to become due in respect of such stocks, or any such sum of money, to be paid to any guardian of such infant, or to any other person, according to the discretion of such court, for the maintenance and education or otherwise for the benefit of such infant, such guardian or other person to whom such payment shall be directed to be made being named in the order directing such payment;

and the receipt of such guardian or other person for such dividends or sum of money, or any part thereof, shall be as effectual as if such

¹ Rest of the section was repealed (U K) by 36 & 37 Vict, c. 91 (S L R)

² Enacting words repealed (U K), 51 & 52 Vict, c 57 (S L R),

infant had attained the age of twenty-one years and had signed and given the same

33 and 34. [*Rep as to U K 36 & 37 Vict, c 91 (S L R)*
Omitted as being inapplicable to India]

35. * * * *¹ the Court of Chancery, or lord chancellor Costs may be directed to be paid intrusted as aforesaid, may order the costs and expenses of any relating to the petitions, orders, directions, conveyances, and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the lands or stock or the rents or dividends in respect of which the same respectively shall be made, in such manner as the said court or lord chancellor shall think proper

36. * * * *¹ the powers and authorities given by this Act to the Court of Chancery in England shall extend to all land and stock within any of the dominions, plantations, and colonies belonging to his Majesty, except Scotland Extent or powers given to the Court of Chancery in England.

37 [*Rep as to U K 37 & 38 Vict, c 35 (S L R)* *Omitted as being inapplicable to India*]

38.² * * * *¹ the powers and authorities given by this Act to the Courts of Chancery and Exchequer in England shall and may be exercised in like manner, and are hereby given, to the Courts of Chancery and Exchequer in Ireland, with respect to land and stock in Ireland Powers given to courts in England may be exercised by courts in Ireland

39 [*Rep as to U K 37 & 38 Vict, c 35 (S L R)* *Omitted as being inapplicable to India*]

40 to 42 [*Rep as to U K 37 & 38 Vict, c 91 (S L R)*
Omitted as being inapplicable to India]

43 [*Rep as to U K 37 & 38 Vict, c 35 (S L R)* *Omitted as being inapplicable to India*]

44. * * * *¹ this Act shall be and is hereby declared to be a full and complete indemnity and discharge to ~~the Bank of England, and all other companies and societies, and their officers and servants, for all acts and things done or permitted to be done pursuant thereto;~~

and ¹ * * * such acts and things shall not be questioned or impeached in any court of law or equity to their prejudice or detriment

¹ Enacting words and the word "that" in s. 44 were repealed (U K) 1837, c 57 (S L R)

² S 38 is repealed, so far as it relates to the Court of Exchequer 1837 & 38 Vict, c 35 (S L R)

³ The words "the governor and company of" were repealed (U K) 1837, c 67 (S L R)

THE COLONIAL OFFICES ACT, 1830

(1 Will. 4, c. 4.)

*An Act * * *¹ to extend the period within which the Patents of Governors of colonies shall on any future Demise of the Crown become vacant, and to provide for the longer Duration of the Patents of Governors after the Demise of the Crown*

[23rd December, 1830.]

[Preamble Rep (U K) 51 & 52 Vict., c 57 (S L R)]

1. [Rep as to U K. 37 & 38 Vict, c 35 (S L R) Omitted as being spent]

Patents, etc ,
for exercise of
offices abroad
shall not
thereafter
determine
until eighteen
months after
demise of the
Crown

2 * * *¹ no patent, commission, warrant, or other authority, for the exercise of any office or employment, civil or military, within any of his Majesty's plantations or possessions abroad, determinable at the pleasure of his Majesty, or of any of his Majesty's heirs and successors, shall, by reason of any future demise of the Crown, be vacated or become void until the expiration of eighteen calendar months next after any such demise of the Crown as aforesaid

THE EVIDENCE ON COMMISSION ACT, 1831²

(1 Will 4, c 22)

An Act to enable Courts of Law to order the Examination of Witnesses upon Interrogatories and otherwise

[30th March, 1831]

WHEREAS great difficulties and delays are often experienced, and sometimes a failure of justice takes place, in actions depending in courts of law, by reason of the want of a competent power and authority in the said courts to order and enforce the examination of witnesses, when the same may be required, before the trial of a cause

and whereas by an Act passed in the thirteenth year of the reign of his late Majesty King George the Third, intituled "An Act for the establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe," certain

13 Geo 3,
c 63

¹ Words repealed (U K) by 51 & 52 Vict, c 57 (S L R), have been omitted

² Extended to suits and proceedings on the Revenue side of the Court of Exchequer by 22 & 23 Vict, c 21, s 16 [Rep 55 & 56 Vict, c 19 (S L R)]

powers are given and provisions made for the examination of witnesses in India in the cases therein mentioned

and it is expedient to extend such powers and provisions .

1. * * * *¹ all and every the powers, authorities, provisions, and matters contained in the said recited Act, relating to the examination of witnesses in India, shall be and the same are hereby extended to all colonies, islands, plantations, and places under the dominion of his Majesty in foreign parts, and to the judges of the several courts therein, and to all actions depending in any of his Majesty's courts of law at Westminster, in what place or country soever the cause of action may have arisen, and whether the same may have arisen within the jurisdiction of the court to the judges whereof the writ or commission may be directed, or elsewhere, when it shall appear that the examination of witnesses under a writ or commission issued in pursuance of the authority hereby given will be necessary or conducive to the due administration of justice in the matter wherein such writ shall be applied for

Powers of the recited Act, as to the examination of witnesses in India, extended to the colonies, etc., and to all actions in the courts at Westminster, when examination by commission shall appear necessary

2. * * * *¹ when any writ or commission shall issue under the authority of the said recited Act, or of the power herein-before given by this Act, the judge or judges to whom the same shall be directed shall have the like power to compel and enforce the attendance and examination of witnesses as the court whereof they are judges does or may possess for that purpose in suits or causes depending in such court

Judges to whom the commission is directed empowered to enforce the attendance of witnesses

3 to 5 [*Rep as to U. K 46 & 47 Vict , c 49, s 3, but see s 7 Omitted as being obsolete or inapplicable to India*]

6. * * * *² it shall be lawful for any sheriff, gaoler, or other officer, having the custody of any prisoner, to take such prisoner for examination under the authority of this Act, by virtue of a writ of habeas corpus to be issued for that purpose, which writ shall and may be issued by any court or judge under such circumstances and in such manner as such court or judge may now by law issue the writ commonly called a writ of habeas corpus ad testificandum.

Prisoners may be removed by habeas corpus for examination.

7. * * * *² it shall be lawful for all and every person authorized to take the examination of witnesses by any rule, order, writ or commission made or issued in pursuance of this Act, and he and they are hereby authorized and required, to take all such examinations upon the oath of the witnesses, or affirmation in cases where affirmation is allowed by law instead of oath to be administered by the person so authorized, or by any judge of the court wherein the action shall be depending,

Examination of witnesses to be taken upon oath or affirmation

¹ Introductory and enacting words repealed (U K), 51 & 52 Vict , c 57 (S L R), and 55 & 56 Vict , c 19 (S L R)

² Words repealed (U K) by 51 & 52 Vict , c. 57 (S L R), and 53 & 54 Vict , c 51 (S L R), have been omitted.

Persons
giving false
evidence to be
deemed guilty
of perjury

and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall and may be indicted and prosecuted for such offence in the county wherein such evidence shall be given, or in the county of Middlesex if the evidence be given out of England

8 to 11 [*Rep as to U K 46 § 47 Vict, c 49, s 3, but see s 7. Omitted as being obsolete or inapplicable to India*]

THE ARMY PRIZE MONEY ACT, 1832.

(2 & 3 Will. 4, c. 53.)

An Act for consolidating and amending the Laws relating to the Payment of Prize Money

[23rd June, 1832]

[*Preamble Rep (U K) 53 and 54 Vict, c 51 (S L R)*]

1 [*Rep as to U K 37 & 38 Vict, c 35 (S L R) Omitted as being spent*]

captures
after
do by the
army, etc,
shall be dis-
posed of as
his Majesty
shall direct

2. * * * *¹ in all captures which shall be made by his Majesty's army, royal artillery, provincial, black, and all other troops in the pay or service of his Majesty, or belonging to his Majesty, but in the pay of the United Company of Merchants trading to the East Indies, or howsoever otherwise paid, of any fortress or possession of his Majesty's enemies, or of any ship or vessel in any road, river, haven, or creek belonging to such fortress or possession, and in all captures, expeditions, or actions from which prize money, bounty money, or grant shall arise, the commanders and other officers and soldiers engaged therein shall have such right and interest as his Majesty shall think fit to order in all the arms, ammunition, stores of war, goods, merchandize, booty, prize and treasure belonging to the state, or to any public trading company of such enemies, which shall be found in such fortress or possession or captured in or granted for any such expedition or action, to be divided in such proportions and according to such general rule of distribution for the army, as shall be established by his Majesty, or in default thereof in such manner as his Majesty shall under his sign manual be pleased to direct

* * * * *

¹ Words repealed (U K) by 51 & 52 Vict, c 57 (S L R), and 53 & 54 Vict, c. 51 (S L R), have been omitted

² Sections 3 to 28 have been omitted as being apparently inapplicable to India

29. * * * *1 in all conjunct expeditions of his Majes- In all con
ty s land and naval forces, from and after the adjudication of all and junct expedi-
every ship or vessel, with their arms, ammunition, tackle, apparel, and tions, after
furniture, and all the goods, merchandize, and other effects on board the adjudication
same, and of every other matter or thing subject to such adjudication by a court of
which shall be captured in any road, haven, river, or creek belonging to admiralty, the
such fortress or possession, or otherwise, as lawful prize to his Majesty, shares of the
in any of his Majesty's courts of admiralty or vice-admiralty which shall army, as soon
be duly authorized to take cognizance of the same, and which courts are as ascertained,
hereby required to proceed therein to lawful adjudication, the share and to be paid
proportion of his Majesty's army, royal artillery, provincial, black, and over to the
other troops in the pay of or belonging to his Majesty or in the pay of treasurer of
the United Company of Merchants trading to the East Indies, shall, as Chelsea Hos-
soon as such shares shall be ascertained, be paid over to the treasurer of pital for
Chelsea Hospital, in order that the same may be distributed, subject to distribution
the provisions, penalties, rules, remedies, and regulations of this Act

* * * * *

THE DRAMATIC COPYRIGHT ACT, 1833

(3 & 4 Will. 4, c. 15)

An Act to amend the Laws relating to Dramatic Literary Property

[10th June, 1833]

[Preamble recites 54 Geo 3, c 156, s 4 Rep (U K) 53 & 54 Vict ,
c 51 (S L R)]

1 The author of any tragedy, comedy, play, opera, farce, or any The author of
other dramatic piece or entertainment, composed and not printed and any dramatic
published by the author thereof or his assignee, or which hereafter shall piece or his
be composed and not printed or published by the author thereof or his assignee shall
assignee, or the assignee of such author, shall have as his own property have as his
the sole liberty of representing, or causing to be represented, at any property the
place or places of dramatic entertainment whatsoever, in any part of the sole liberty of
United Kingdom of Great Britain and Ireland, in the Isles of Man, representing
Jersey, and Guernsey, or in any part of the British dominions, any such it when not
production as aforesaid, not printed and published by the author thereof published ,
or his assignee, and shall be deemed and taken to be the proprietor
thereof,

¹ Words repealed (U K) by 51 & 52 Vict , c. 57 (S L R), and 53 & 54 Vict , c 51
(S L R), have been omitted
² The remaining provisions have been omitted as being apparently inapplicable to
India

and after
publication
for 28
years or
during au-
thor's life

and ^{1*} * the author of any such production, printed and published within ten years before the passing of this Act by the author thereof or his assignee, or which shall hereafter be so printed and published, or the assignee of such author, shall, from the time of passing this Act, or from the time of such publication respectively, until the end of twenty-eight years from the day of such first publication of the same, and also, if the author or authors, or the survivor of the authors, shall be living at the end of that period, during the residue of his natural life, have as his own property the sole liberty of representing, or causing to be represented, the same at any such place of dramatic entertainment as aforesaid, and shall be deemed and taken to be the proprietor thereof

Proviso as to
cases where,
previously to
the passing of
this Act, con-
sent has been
given to such
representa-
tion

Provided nevertheless, that nothing in this Act contained shall pre-
judice, alter, or affect the right or authority of any person to represent or
cause to be represented, at any place or places of dramatic entertainment
whatsoever, any such production as aforesaid, in all cases in which the
author thereof or his assignee shall, previously to the passing of this Act,
have given his consent to or authorized such representation, but that such
sole liberty of the author or his assignee shall be subject to such right or
authority

Penalty on
persons repre-
senting pieces
contrary to
this Act

2. * * * *² if any person shall, during the continu-
ance of such sole liberty as aforesaid, contrary to the intent of this Act or
right of the author or his assignee, represent, or cause to be represented,
without the consent in writing of the author or other proprietor first had
and obtained, at any place of dramatic entertainment within the limits
aforesaid, any such production as aforesaid, or any part thereof, every
such offender shall be liable for each and every such representation to the
payment of an amount not less than forty shillings,³ or to the full amount
of the benefit or advantage arising from such representation, or the injury
or loss sustained by the plaintiff therefrom, whichever shall be the greater
damages, to the author or other proprietor of such production so re-
presented contrary to the true intent and meaning of this Act, to be
recovered, together with double costs of suit, by such author, or other
proprietors, in any court having jurisdiction in such cases in that part of
the said United Kingdom or of the British dominions in which the offence
shall be committed,

and in every such proceeding where the sole liberty of such author or
his assignee as aforesaid shall be subject to such right or authority as
aforesaid, it shall be sufficient for the plaintiff to state that he has such
sole liberty, without stating the same to be subject to such right or
authority, or otherwise mentioning the same

¹ The word " that " was repealed (U. K.) by 53 & 54 Vict., c. 51 (S. L. R.)

² Enacting words repealed (U. K.), 51 & 52 Vict., c. 57 (S. L. R.)

³ As to minimum penalty and costs, see 51 & 52 Vict., c. 17, ss. 1, 2.

3. Provided nevertheless * * * *¹ that all actions or proceedings for any offence or injury that shall be committed against this Act shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of no effect. Limitation of actions

4. * * * *¹ whenever authors, persons, offenders, or others are spoken of in this Act in the singular number or in the masculine gender, the same shall extend to any number of persons and to either sex Explanation of words

THE JUDICIAL COMMITTEE ACT, 1833

(3 & 4 Will. 4, c. 41.)

An Act for the better Administration of Justice in His Majesty's Privy Council.

[14th August, 1833.]

[*Preamble. Rep (U K) 53 & 54 Vict, c 33 (S L R)*]

1 * * * * The president for the time being of his Majesty's privy council * * * * and such of the members of his Majesty's privy council as shall from time to time hold any of the offices following, that is to say, of the office of lord keeper or first lord commissioner of the great seal of Great Britain, * * * * and also all persons members of his Majesty's privy council, who shall have been president thereof * * * *³ or shall have held any of the other offices herein before mentioned, shall form a committee of his Majesty's said privy council and shall be styled "The Judicial Committee of the Privy Council" Certain members of privy council to form a committee to be styled "The Judicial Committee of the Privy Council"

Provided nevertheless that it shall be lawful for his Majesty from time to time, as and when he shall think fit by his sign manual to appoint any two other persons, being privy councillors, to be members of the said committee⁴

2. [*Rep 53 & 54 Vict, c 27, s 18*]

¹ Enacting words repealed (U K), 51 & 52 Vict, c 57 (S. L. R.)

² Words repealed (U K) by 53 & 54 Vict, c 33 (S. L. R.), here never inserted.

³ Words repealed (U K) by 51 & 52 Vict, c 57 (S. L. R.) and 51 & 52 Vict, c 25 (S. L. R.), have been omitted

⁴ Amended by 50 & 51 Vict, c. 70, s 3

Appeals to King in council from sentence of any judge, etc., shall be referred to the committee, to report thereon

3. * * * *^{*1} all appeals or complaints in the nature of appeals whatever, which either by virtue of this Act, or of any law, statute, or custom, may be brought before his Majesty or his Majesty in council from or in respect of the determination, sentence, rule, or order of any court, judge, or judicial officer, and all such appeals as are now pending and unheard shall from and after the passing of this Act be referred by his Majesty to the said judicial committee of his privy council, and such appeals, causes, and matters shall be heard by the said judicial committee, and a report or recommendation thereon shall be made to his Majesty in council for his decision thereon as heretofore, in the same manner and form as has been heretofore the custom with respect to matters referred by his Majesty to the whole of his privy council or a committee thereof (the nature of such report or recommendation being always stated in open court)

His Majesty may refer any other matters to the committee

4. * * * *^{*1} it shall be lawful for his Majesty to refer to the said judicial committee for hearing or consideration any such other matters whatsoever as his Majesty shall think fit,

and such committee shall thereupon hear or consider the same and shall advise his Majesty thereon in manner aforesaid.

No report to be made unless with concurrence of majority present
Other members of council may be summoned to attend

5. 1* * * *^{*2} no report or recommendation shall be made to his Majesty unless a majority of the members of such judicial committee present at the hearing shall concur in such report or recommendation

Provided always, that nothing herein contained shall prevent his Majesty, if he shall think fit, from summoning any other of the members of his said privy council to attend the meetings of the said committee

If his Majesty directs the attendance of any member who is a judge, the other judges of the court to which he belongs shall arrange with regard to the business of the court

6. * * * *^{*1} in case his Majesty shall be pleased, by directions under his sign manual, to require the attendance at the said committee for the purposes of this Act of any member or members of the said privy council who shall be a judge or judges of the Court of King's Bench or of the Court of Common Pleas, or of the Court of Exchequer, such arrangements for dispensing with the attendance of such judge or judges upon his or their ordinary duties during the time of such attendance at the privy council as aforesaid shall be made by the judges of the court or courts to which such judge or judges shall belong respectively in regard to the business of the court, and by the judges of the said three courts, or by any eight or more of such judges, including the chiefs of the several courts, in regard to all other duties, as may be necessary and consistent with the public service

Committee may take evidence *in voce*, or upon written depositions

7. * * * *^{*1} it shall be lawful for the said judicial committee, in any matter which shall be referred to such committee, to examine witnesses by word of mouth (and either before or after examina-

¹ Enacting words repealed (U K), 51 & 52 Vict, c 57 (S L R)

² Portion repealed by 14 & 15 Vict, c 83, s 16 (*post*), has been omitted

tion by deposition), or to direct that the depositions of any witness shall be taken in writing by the registrar of the said privy council to be appointed by his Majesty as herein-after mentioned, or by such other person or persons, and in such manner, order, and course, as his Majesty in council or the said judicial committee shall appoint and direct,

and the said registrar and such other person or persons so to be appointed shall have the same powers as are now possessed by an examiner of the High Court of Chancery or of any court ecclesiastical

8. * * * *^{*1} in any matter which shall come before the said judicial committee it shall be lawful for the said committee to direct that such witnesses shall be examined or re-examined, and as to such facts as to the said committee shall seem fit, notwithstanding any such witness may not have been examined, or no evidence may have been given on any such facts in a previous stage of the matter,

Committee may order any particular witnesses to be examined, and as to any particular facts, and may remit causes for rehearing

and it shall also be lawful for his Majesty in council, on the recommendation of the said committee, upon any appeal, to remit the matter which shall be the subject of such appeal to the court from the decision of which such appeal shall have been made, and at the same time to direct that such court shall rehear such matter, in such form, and either generally or upon certain points only, and upon such rehearing take such additional evidence though before rejected, or reject such evidence before admitted, as his Majesty in council shall direct;

and further, on any such remitting or otherwise, it shall be lawful for his Majesty in council to direct that one or more feigned issue or issues shall be tried in any court in any of his Majesty's dominions abroad, for any purpose for which such issue or issues shall to his Majesty in council seem proper

9. * * * *^{*1} every witness who shall be examined in pursuance of this Act shall give his or her evidence upon oath, or if a Quaker or Moravian upon solemn affirmation, which oath and affirmation respectively shall be administered by the said judicial committee and registrar, and by such other person or persons as his Majesty in council or the said judicial committee shall appoint,

Witnesses to be examined on oath, and to be liable to punishment for perjury

and every such witness who shall wilfully swear or affirm falsely shall be deemed guilty of perjury, and shall be punished accordingly

10. * * * *^{*1} it shall be lawful for the said judicial committee to direct one or more feigned issue or issues to be tried in any court of common law, and either at bar, before a judge of assize, or at the sittings for the trial of issues in London or Middlesex, and either by a special or common jury, in like manner and for the same purpose as is now done by the High Court of Chancery

Committee may direct feigned issues,

and may, in certain cases, direct depositions to be read, etc., at the trial of the issue,

11. * * * *^{*1} it shall be in the discretion of the said judicial committee to direct that, on the trial of any such issue, the depositions already taken of any witness who shall have died, or who shall be incapable to give oral testimony, shall be received in evidence, and further, that such deeds, evidences, and writing shall be produced, and that such facts shall be admitted, as to the said committee shall seem fit.

and may make orders as to the admission of witnesses,

12. * * * *^{*1} it shall be lawful for the said judicial committee to make such and the like orders respecting the admission of persons, whether parties or others, to be examined as witnesses upon the trial of any such issues as aforesaid, as the lord high chancellor or the Court of Chancery has been used to make respecting the admission of witnesses upon the trial of issues directed by the lord chancellor or the Court of Chancery.

and may direct new trials of issues

13 * * * *^{*1} it shall be lawful for the said judicial committee to direct one or more new trial or new trials of any issue, either generally or upon certain points only,

and in case any witness examined at a former trial of the same issue shall have died, or have, through bodily or mental disease or infirmity, become incapable to repeat his testimony, it shall be lawful for the said committee to direct that parol evidence of the testimony of such witness shall be received.

14. And whereas by an Act passed in the thirteenth year of his late Majesty King George the Third, and intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company as well in India as in Europe" and by an Act passed in the first year of the reign of his present Majesty and intituled "An Act to enable the courts of law to order the examination of witnesses upon interrogatories and otherwise" certain powers are given to certain courts therein mentioned to enforce, and provisions are made for the examination of witnesses by commission upon interrogatories and otherwise

Powers of 13 Geo 3, c 63, and 1 Will 4, c. 22, shall extend to the judicial committee

Be it therefore further enacted, that all the powers and provisions contained in the two last-mentioned Acts or either of them shall extend to and be exercised by the said judicial committee in all respects as if such committee had been therein named as one of his Majesty's courts of law at Westminster

Costs to be in the discretion of the committee

15. * * * *^{*1} the costs incurred in the prosecution of any appeal or matter referred to the said judicial committee, and of such issues as the same committee shall under this Act direct, shall be paid by such party or parties, person or persons, and be taxed by the aforesaid registrar or such other person or persons to be appointed by his

Majesty in council or the said judicial committee, and in such manner as the said committee shall direct

16. * * * *¹ the orders or decrees of his Majesty in council made in pursuance of any recommendation of the said judicial committee, in any matter of appeal from the judgment or order of any court or judge, shall be enrolled for safe custody in such manner, and the same may be inspected and copies thereof taken under such regulations, as his Majesty in council shall direct

Decrees to be enrolled

17. * * * *¹ it shall be lawful for the said committee to refer any matters to be examined and reported on to the aforesaid registrar, or to such other person or persons as shall be appointed by his Majesty in council, or by the said judicial committee, in the same manner and for the like purposes as matters are referred by the Court of Chancery to a master of the said court;

Committee may refer matters to registrar in the same manner as matters are referred by the Court of Chancery to a master

and for the purposes of this Act the said registrar and the said person or persons so to be appointed shall have the same powers and authorities as are now possessed by a master in Chancery

18. * * * *¹ it shall be lawful for his Majesty, under his sign manual, to appoint any person to be the registrar of the said privy council, as regards the purposes of this Act, and to direct what duties shall be performed by the said registrar

His Majesty may appoint registrar

19. * * * *¹ it shall be lawful for the president for the time being of the said privy council to require the attendance of any witnesses, and the production of any deeds, evidences, or writings by writ to be issued by such president in such and the same form or as nearly as may be, as that in which a writ of subpoena adtestificandum or of subpoena duces tecum is now issued by his Majesty's Court of King's Bench at Westminster,

Attendance of witnesses, and production of papers, etc., may be compelled by subpoena.

and every person disobeying any such writ so to be issued by the said president shall be considered as in contempt of the said judicial committee, and shall also be liable to such and the same penalties and consequences as if such writ had issued out of the said Court of King's Bench, and may be sued for such penalties in the said court

20. * * * *¹ all appeals to his Majesty in council shall be made within such times respectively within which the same may now be made, where such time shall be fixed by any law or usage, and where no such law or usage shall exist, then within such time as shall be ordered by his Majesty in council,

Time of appealing

and subject to any right subsisting under any charter or constitution of any colony or plantation, it shall be lawful for his Majesty in council to alter any usage as to the time of making appeals, and to make any order respecting the time of appealing to his Majesty in council

¹ Enacting words repealed (U K), 51 & 52 Vict., c 57 (S L R)

Decrees on
appeals from
courts abroad
to be carried
into effect as
the King in
council shall
direct

21. * * * *¹ the order or decree of his Majesty in council on any appeal from the order, sentence, or decree of any court of justice in the East Indies, or of any colony, plantation, or other his Majesty's dominions abroad, shall be carried into effect in such manner, and subject to such limitations and conditions, as his Majesty in council shall, on the recommendation of the said judicial committee, direct,

and it shall be lawful for his Majesty in council, on such recommendation, by order to direct that such court of justice shall carry the same into effect accordingly, and thereupon such court of justice shall have the same powers of carrying into effect and enforcing such order or decree as are possessed by or are hereby given to his Majesty in council

Saving of
powers, etc.,
of privy
council,
except as
hereby
altered

Provided always that nothing in this Act contained shall impeach or abridge the powers, jurisdiction, or authority of his Majesty's privy council as heretofore exercised by such council, or in anywise alter the constitution or duties of the said privy council, except so far as the same are expressly altered by this Act, and for the purposes aforesaid

22. [*Rep as to U K 24 & 25 Vict, c 101 (S L R) Omitted as being inapplicable to India*]

Orders made
on such ap
peals to have
effect not
withstanding
death of
parties, etc

23. * * * *¹ in any case where any order shall have been made on any such appeal as last aforesaid, the same shall have full force and effect notwithstanding the death of any of the parties interested therein,

but in all cases where any such appeal may have been withdrawn or discontinued, or any compromise made in respect of the matter in dispute, before the hearing thereof, then the determination of his Majesty in council in respect of such appeal shall have no effect

His Majesty
may make
orders for
regulating the
mode, etc., of
appeals.

24. * * * *¹ it shall be lawful for his Majesty in council from time to time to make any such rules and orders as may be thought fit for the regulating the mode, form, and time of appeal to be made from the decisions of the said courts of Sudder Dewanny Adawlut, or any other courts of judicature in India or elsewhere to the eastward of the Cape of Good Hope from the decisions of which an appeal lies to his Majesty in council, and in like manner from time to time to make such other regulations for the preventing delays in the making or hearing such appeals, and as to the expenses attending the said appeals, and as to the amount or value of the property in respect of which any such appeal may be made

25 to 27 [*Rep as to U K 24 & 25 Vict, c 101 (S L R) Omitted as being inapplicable to India*]

Power of
enforcing
decrees

28. * * * *¹ the said judicial committee shall have and enjoy in all respects such and the same power of punishing contempts and of compelling appearances, and * *² his Majesty in council shall have and enjoy in all respects such and the same powers of enforcing

¹ Enacting words repealed (U K.), 51 & 52 Vict, c. 57 (S L R)

² The word "that" was repealed (U K.) by 51 & 52 Vict, c. 57 (S L R)

3 & 4 Will 4, c. 41.] *The Judicial Committee Act, 1833.* 191

3 & 4 Will. 4, c 85] *The Government of India Act, 1833.*

judgments, decrees, and orders as are now exercised by the High Court of Chancery or the Court of King's Bench (and both in personam and in rem), * * * * *

29. [*Rep as to U K 38 & 39 Vict , c 66 (S. L R.). Omitted as being inapplicable to India*]

30. * * * * *² two members of his Majesty's privy council who shall have held the office of judge in the East Indies or any of his Majesty's dominions beyond the seas and who, being appointed for that purpose by his Majesty, shall attend the sittings of the judicial committee of the privy council, shall severally be entitled to receive over and above any annuity granted to them in respect of having held such office as aforesaid, the sum of four hundred pounds for every year during which they shall so attend as aforesaid as an indemnity for the expense which they may thereby incur,

and such sum of four hundred pounds shall be chargeable upon and paid out of the consolidated fund of the United Kingdom of Great Britain and Ireland

Two retired Indian or colonial judges attending the judicial committee shall receive an allowance.

The British territories in India to remain under the government of the company till 30th April, 1854

Real and personal property of the company to be held in trust for the Crown, for the service of India

1. * * * * *¹ The territorial acquisitions and revenues mentioned or referred to in the said Act of the fifty-third year of his late Majesty King George the Third, together with the port and island of Bombay and all other territories now in the possession and under the government of the said company except the island of St Helena, shall remain and continue under such government until the thirtieth day of April one thousand eight hundred and fifty-four,

and ²* * all the lands and hereditaments, revenues, rents, and profits of the said company, and all the stores, merchandize, chattels, monies, debts, and real and personal estate whatsoever, except the said island of St Helena and the stores and property thereon herein-after mentioned, subject to the debts and liabilities now affecting the same respectively, and the benefit of all contracts, covenants, and engagements, and all rights to fines, penalties, and forfeitures, and other emoluments whatsoever, which the said company shall be seised or possessed of or entitled unto on the ³* * twenty-second day of April one thousand eight hundred and thirty-four shall remain and be vested in, and be held, received, and exercised respectively according to the nature and quality, estate and interest of and in the same respectively, by the said company, in trust for his Majesty, ⁴* * * * for the service of the government of India, discharged of all claims of the said company to any profit or advantage therefrom to their own use, except the dividend on their capital stock secured to them as herein-after is mentioned, subject to such powers and authorities for the superintendence, direction and control over the acts, operations, and concerns of the said company as have been already made or provided by any Act or Acts of Parliament in that behalf, or are made or provided by this Act

All privileges, powers, etc., granted by 53 Geo 3, c 155, for the term thereby limited,

and all enactments not repugnant to this Act,

as also all rights and immunities of the company,

2 * * * *⁵ all and singular the privileges, franchises, abilities, capacities, powers, authorities, whether military or civil, rights, remedies, methods of suits, penalties, forfeitures, disabilities, provisions, matters, and things whatsoever granted to or continued in the said united company by the said Act of the fifty-third year of King George the Third for and during the term limited by the said Act, and all other the enactments, provisions, matters, and things contained in the said Act, or in any other Act or Acts whatsoever which are limited or may be construed to be limited to continue for and during the term granted to the said company by the said Act of the fifty-third year of King George the Third so far as the same or any of them are in force, and not repealed by or repugnant to the enactments herein-after contained, and all powers of alienation and disposition, rights, franchises, and immunities, which the said united company now have, shall continue and be in force, and

¹ Words repealed by 53 & 54 Vict. c 33 (S. L. R.), have been omitted

^{2, 3, 4} The words "that," "said" and "his heirs and successors" were repealed by 53 & 54 Vict., c 33 (S. L. R.)

⁵ Enacting words repealed (U. K.), 51 & 52 Vict., c 57 (S. L. R.)

may be exercised and enjoyed, as against all persons whomsoever, subject to the superintendence, direction and control herein-before mentioned until the thirtieth day of April one thousand eight hundred and fifty-four

to be in force till 30th April, 1854, subject to control

3 to 18 [*Rep 37 & 38 Vict , c 35 (S L R)*]

19. [*Rep 53 & 54 Vict , c 33 (S L R)*]

20 to 24. [*Rep 37 & 38 Vict , c 35 (S L R)*]

25 * * * *¹ the said board shall have and be invested with full power and authority to superintend, direct, and control all acts, operations, and concerns of the said company which in anywise relate to or concern the government or revenues of the said territories or the property hereby vested in the said company in trust as aforesaid and all grants of salaries, gratuities and allowances and all other payments and charges whatever out of or upon the said revenues and property respectively, except as herein-after is mentioned

The board of commissioners to control all acts of the company concerning India, etc

26 to 35 [*Rep 37 & 38 Vict , c 35 (S L R)*]

36 Provided also * * * *¹ that if the said board shall be of opinion that the subject-matter of any of their deliberations concerning the levying war or making peace, or treating or negotiating with any of the native princes or states in India, or with any other princes or states, or touching the policy to be observed with respect to such princes or states intended to be communicated in orders, dispatches, official letters or communications, to any of the governments or presidencies in India, or to any officers or servants of the said company shall be of a nature to require secrecy, it shall and may be lawful for the said board to send their orders, dispatches, official letters or communications, to the secret committee of the said court of directors to be appointed as is by this Act directed, who shall thereupon without disclosing the same transmit the same according to the tenor thereof or pursuant to the directions of the said board to the respective governments and presidencies, officers and servants,

If the board are of opinion that any matters wherein Indian or other states are concerned require secrecy, the board may send official communications through secret committee

and that the said governments and presidencies, officers and servants shall be bound to pay a faithful obedience thereto, in like manner as if such orders, dispatches, official letters or communications had been sent to them by the said court of directors

37 [*Rep 37 & 38 Vict , c 35 (S L R)*]

38² * * * *¹ the territories now subject to the government of the presidency of Fort William in Bengal shall be divided

Presidency of Fort William in Bengal to

¹ Enacting words repealed (U K), 51 & 52 Vict , c 57 (S L R)

² The operation of this section as to the presidency of Agra is suspended 5 & 6 Will 4, c 52, 16 & 17 Vict , c 95, s 15

be divided
into two
presidencies.

into two distinct presidencies, one of such presidencies in which shall be included Fort William aforesaid, to be styled the Presidency of Fort William in Bengal, and the other of such presidencies to be styled the Presidency of Agra,

The court of
directors to
declare the
limits from
time to time
of the several
presidencies

and it shall be lawful for the said court of directors under the control by this Act provided, and they are hereby required to declare and appoint what part or parts of any of the territories under the government of the said company shall from time to time be subject to the government of each of the several presidencies now subsisting or to be established as aforesaid, and from time to time, as occasion may require, to revoke and alter, in the whole or in part, such appointment, and such new distribution of the same as shall be deemed expedient

Government
of India
vested in
governor
general and
counsellors.

39 * * * *1 the superintendence, direction, and control of the whole civil and military government of all the said territories and revenues in India shall be and is hereby vested in a governor general and counsellors, to be styled "The Governor General of India in Council "

40 [*Rep 24 & 25 Vict , c 67, s 2*]

41 and 42 [*Rep 37 & 38 Vict , c 35 (S L R)*]

43 and 44. [*Rep 24 & 25 Vict , c 67, s 2*]

All such laws
and regula-
tions to be of
the same
force as any
Act of
Parliament

45 Provided also * * * *1 that all laws and regulations made as aforesaid, so long as they shall remain unrepealed, shall be of the same force and effect within and throughout the said territories as any Act of Parliament would or ought to be within the same territories and shall be taken notice of by all courts of justice whatsoever within the same territories in the same manner as any public Act of Parliament would and ought to be taken notice of,

Registration
unnecessary

and it shall not be necessary to register or publish in any court of justice any laws or regulations made by the said governor general in council

Restriction
as to giving
the power of
punishing
with death
European
subjects, etc

46 Provided also * * * *1 that it shall not be lawful for the said governor general in council, without the previous sanction of the said court of directors, to make any law or regulation whereby power shall be given to any courts of justice, other than the courts of justice established by his Majesty's charters, to sentence to the punishment of death any of his Majesty's natural-born subjects born in Europe, or the children of such subjects, or which shall abolish any of the courts of justice established by his Majesty's charters

The court of
directors to
submit to the
board rules
for the pro-
cedure of the

47 * * * *1 the said court of directors shall forthwith submit for the approbation of the said board, such rules as they shall deem expedient for the procedure of the governor general in council in the discharge and exercise of all powers, functions, and duties imposed on

or vested in him by virtue of this Act or to be imposed or vested in him by any other Act or Acts, which rules shall prescribe the modes of promulgation of any laws or regulations to be made by the said governor general in council and of the authentication of all acts and proceedings whatsoever of the said governor general in council,

and such rules when approved by the said board of commissioners shall be of the same force as if they had been inserted in this Act

Provided always that such rules shall be laid before both Houses of Parliament in the session next after the approval thereof

48 Provided always * * * *² that all other functions of the said governor general in council may be exercised by the said governor general and one or more ordinary member or members of council, and that in every case of difference of opinion at meetings of the said council where there shall be an equality of voices, the said governor general shall have two votes or the casting vote

49. [*Rep 33 & 34 Vict, c 3, s 4*]

50. [*Rep 24 & 25 Vict, c 67, s 2*]

51 Provided always * * * *¹ that nothing herein contained shall extend to affect in any way the right of Parliament to make laws for the said territories and for all the inhabitants thereof,

and it is expressly declared that a full, complete, and constantly existing right and power is intended to be reserved to Parliament to control, supersede, or prevent all proceedings and acts whatsoever of the said governor general in council, and to repeal and alter at any time any law or regulation whatsoever made by the said governor general in council, and in all respects to legislate for the said territories and all the inhabitants thereof in as full and ample a manner as if this Act had not been passed,

and the better to enable Parliament to exercise at all times such right and power, all laws and regulations made by the said governor general in council shall be transmitted to England, and laid before both Houses of Parliament, in the same manner as is now by law provided concerning the rules and regulations made by the several governments in India

52 * * * *¹ all enactments, provisions, matters, and things relating to the governor general of Fort William in Bengal in council, and the governor general of Fort William in Bengal alone, respectively, in any other Act or Acts contained, so far as the same are now in force, and not repealed by or repugnant to the provisions of this Act, shall continue and be in force and be applicable to the governor general of India in council, and to the governor general of India alone, respectively.

¹ Enacting words repealed (U K), 51 & 52 Vict c 57 (S L R)

² The words " that all laws and regulations shall be made at some meeting of the council at which the said governor general and at least three of the ordinary members of council shall be assembled, and " were repealed by 53 & 54 Vict., c. 33 (S L R)

53 to 55. [*Rep 37 & 38 Vict, c 35 (S L R)*]

The executive government of the presidencies to be administered by a governor and three councillors

56 * * * *¹ the executive government of each of the several presidencies of the Fort William in Bengal, Fort Saint George, Bombay, and Agra shall be administered by a governor and three councillors, to be styled "The Governor in Council of the said Presidencies of Fort William in Bengal, Fort Saint George, Bombay, and Agra respectively",

and the said governor and councillors respectively of each such presidency shall have the same rights and voices in their assemblies, and shall observe the same order and course in their proceedings, as the governors in council of the presidencies of Fort Saint George and Bombay now have and observe, * * * *²

Directors may revoke the appointment of councils, or reduce the number of councillors

57. Provided always * * * *¹ that it shall and may be lawful for the said court of directors, under such control as is by this Act provided, to revoke and suspend, so often and for such periods as the said court shall in that behalf direct, the appointment of councils in all or any of the said presidencies, or to reduce the number of councillors in all or any of the said councils,

and during such time as a council shall not be appointed in any such presidencies the executive government thereof shall be administered by a governor alone

58. [*Rep 37 & 38 Vict, c 35 (S L R)*]

The governors of the presidencies to have the powers and immunities of the present governors of Madras and Bombay, but not to make or suspend laws or create officers, etc

59. * * * *¹ in the presidencies in which the appointment of a council shall be suspended under the provision herein-before contained, and during such time as councils shall not be appointed therein respectively, the governors appointed under this Act, and in the presidencies in which councils shall from time to time be appointed, the said governors in their respective councils shall have all the rights, powers, duties, functions, and immunities whatsoever, not in anywise repugnant to this Act, which the governors of Fort Saint George and Bombay in their respective councils now have within their respective presidencies;

and the governors and members of council of presidencies appointed by or under this Act shall severally have all the rights, powers, and immunities respectively, not in anywise repugnant to this Act, which the governors and members of council of the presidencies of Fort Saint George and Bombay respectively now have in their respective presidencies

Provided that no governor or governor in council shall have the power of making or suspending any regulations or laws in any case whatever, unless in cases of urgent necessity (the burthen of the proof whereof shall be on such governor or governor in council), and then only until the

¹ Enacting words repealed (U K.), 51 & 52 Vict, c 57 (S L R)

² Rest of the section was repealed by 37 & 38 Vict, c 35 (S L R).

decision of the governor general of India in council shall be signified thereon,

and provided also, that no governor or governor in council shall have the power of creating any new office, or granting any salary, gratuity, or allowance, without the previous sanction of the governor general of India in council

60. [Rep 37 & 38 Vict, c 35 (S L R)]

61. 1* * * *2 it shall be lawful for the said court of directors to appoint any person or persons provisionally to succeed to any of the offices aforesaid, for supplying any vacancy or vacancies therein, when the same shall happen by the death or resignation of the person or persons holding the same office or offices respectively, or on his or their departure from India with intent to return to Europe, or on any event or contingency expressed in any such provisional appointment or appointments to the same respectively, and such appointments again to revoke

Power for the court to make provisional appointments to any offices

Provided that every provisional appointment to the several offices of governor general of India, governor of a presidency, and the member of council of India by this Act directed to be appointed from amongst persons who shall not be servants of the said company, shall be subject to the approbation of his Majesty, to be signified as aforesaid, but that no person so appointed to succeed provisionally to any of the said offices shall be entitled to any authority, salary, or emolument appertaining thereto until he shall be in the actual possession of such office

Provisional appointments of certain officers to be approved by his Majesty

62. * * * *2 if any vacancy shall happen in the office of governor general of India when no provisional or other successor shall be upon the spot to supply such vacancy, then and in every such case ³the ordinary member of council next in rank to the said governor general shall hold and execute the said office of governor general of India

4* * * * until a successor shall arrive or until some other person on the spot shall be duly appointed thereto,

In case of vacancy in the office of governor general, and no successor upon the spot, the ordinary member of council next in rank to act as governor general.

and every such acting governor general shall, during the time of his continuing to act as such, have and exercise all the rights and powers of governor general of India, and shall be entitled to receive the emoluments and advantages appertaining to the office by him supplied, such acting governor general foregoing his salary and allowance of a member of council for the same period

63. * * * *2 if any vacancy shall happen in the office of governor of Fort Saint George, Bombay, or Agra, when no provisional

Provision in case of a vacancy in the office

¹ So much of s 61 as relates to vacancies in the office of Ordinary Member of the Council of India was repealed by 24 & 25 Vict, c 67, s 2

² Enacting words repealed (U K.), 51 & 52 Vict, c 57 (S L R)

³ The Vice President appointed under 9 Edw 7, c 4, s 4, shall be deemed to be such member

⁴ The words "and governor of the presidency of Fort William in Bengal" were repealed by 2 & 3 Geo 5, c 6, s 4, and Schedule, Part II

of governor
of any of the
subordinate
presidencies
and no
successor
on the spot

or other successor shall be upon the spot to supply such vacancy, then and in every such case, if there shall be a council in the presidency in which such vacancy shall happen, the member of such council, who shall be next in rank to the governor, other than the * * *² officer commanding the forces of such presidency, and if there shall be no council, then the secretary of government of the said presidency who shall be senior in the said office of secretary, shall hold and execute the said office of governor until a successor shall arrive or until some other person on the spot shall be duly appointed thereto,

and every such acting governor shall, during the time of his continuing to act as such, receive and be entitled to the emoluments and advantages appertaining to the office by him supplied, such acting governor foregoing all salaries and allowances by him held and enjoyed at the time of his being called to supply such office

64 [*Rep 53 & 54 Vict, c 33 (S L R)*]

The governor
general in
council to
have the con-
trol over the
presidencies

65. * * *³ the said governor general in council shall have and be invested by virtue of this Act with full power and authority to superintend and control the governor and governors in council of Fort William in Bengal, Fort Saint George, Bombay, and Agra, in all points relating to the civil or military administration of the said presidencies respectively, and the said governors and governors in council shall be bound to obey such orders and instructions of the said governor general in council in all cases whatsoever

66 [*Rep 24 & 25 Vict, c 67, s 2*]

Powers of
governors
not to be sus-
pended by
visit of gov-
ernor general

67 * * *³ when the said governor general shall visit any of the presidencies of Fort Saint George, Bombay, or Agra, the powers of the governors of those presidencies respectively shall not by reason of such visit be suspended

Communica-
tions to be
transmitted
by governors
to governor
general in
council.

68 * * *³ the said governors and governors in council of the said presidencies of Fort William in Bengal, Fort Saint George, Bombay, and Agra respectively shall and they are hereby respectively required regularly to transmit to the said governor general in council true and exact copies of all such orders and acts of their respective governments, and also advice and intelligence of all transactions and matters which shall have come to their knowledge, and which they shall deem material to be communicated to the said governor general in council as aforesaid, or as the said governor general in council shall from time to time require

69 [*Rep 53 & 54 Vict, c 33 (S L R)*]

70 [*Rep 24 & 25 Vict, c 67, s 2*]

¹ The Vice President shall be deemed to be the senior member 9 Edw 7, c 4, s 4

² The words "commander in chief or," which were repealed by 56 & 57 Vict, c 62, s 2, have been omitted

³ Enacting words repealed (U K), 51 & 52 Vict, c 57 (S L R)

71. [Rep 2 & 3 Geo 5, c 6, s 4 & Sch, Part II]

72. [Rep 37 & 38 Vict, c 35 (S L R)]

73. * * * *¹ it shall be lawful for the said governor general in council from time to time to make articles of war for the government of the native officers and soldiers in the military service of the company, and for the administration of justice by courts-martial to be holden on such officers and soldiers and such articles of war from time to time to repeal or vary and amend,

Articles of war to be made by governor general in council.

and such articles of war shall be made and taken notice of in the same manner as all other the laws and regulations to be made by the said governor general in council under this Act, and shall prevail and be in force, and shall be of exclusive authority over all the native officers and soldiers in the said military service, to whatever presidency such officers and soldiers may belong or wheresoever they may be serving

Provided nevertheless, that until such articles of war shall be made by the said governor general in council, any articles of war for or relating to the government of the company's native forces, which at the time of this Act coming into operation shall be in force and use in any part or parts of the said territories, shall remain in force

74. * * * *¹ it shall be lawful for his Majesty, by any writing under his sign manual, * * * *² to remove or dismiss any person holding any office, employment or commission, civil or military, under the said company in India, and to vacate any appointment or commission of any person to any such office or employment * * * *²

His Majesty may remove any officer of the company in India

75. Provided always * * * *¹ that nothing in this Act contained shall take away the power of the said court of directors to remove or dismiss any of the officers or servants of the said company, but that the said court shall and may at all times have full liberty to remove or dismiss any of such officers or servants at their will and pleasure

The power of the directors to remove their servants preserved

76. * * * *¹ there shall be paid to the several officers herein-after named the several salaries set against the names of such officers, subject to such reduction of the said several salaries respectively as the said court of directors, with the sanction of the said board, may at any time think fit (that is to say,)

Salaries of governor general, &c

To the governor general of India, two hundred and forty thousand sicca rupees

To each ordinary member of the council of India, ninety-six thousand sicca rupees

¹ Enacting words repealed (U K), 51 & 52 Vict, c 57 (S L R.)

² Words repealed by 53 & 54 Vict, c 33 (S L R), have been omitted

To each governor of the presidencies of Fort Saint George, Bombay, and Agra, one hundred and twenty thousand sicca rupees

To each member of any council to be appointed in any presidency, sixty thousand sicca rupees

and the salaries of the said officers respectively shall commence from their respectively taking upon them the execution of their respective offices,

and the said salaries shall be the whole profit or advantage which the said officers shall enjoy during their continuance in such offices respectively,

Acceptance of gratuities, etc, a misdemeanor

and it shall be and it is hereby declared to be a misdemeanor for any such officer to accept for his own use in the discharge of his office any present, gift, donation, gratuity or reward, pecuniary or otherwise whatsoever, or to trade or traffic for his own benefit or for the benefit of any other person or persons whatsoever, * * * * *

Governor general and governors, etc, to forego pensions, etc, from the crown or company while they hold office

77 Provided always * * * * *² that if any governor general, governor, or ordinary member of the council of India, or any member of the council of any presidency, shall hold or enjoy any pension, salary, or any place, office, or employment of profit under the crown or any public office or the said company, or any annuity payable out of the civil or military fund of the said company, the salary of his office of governor general of India, governor or member of council, shall be reduced by the amount of the pension, salary, annuity, or profits of office so respectively held or enjoyed by him

Directors to make regulations for the distribution of patronage in India

78 * * * * *² the said court of directors, with the approbation of the said board of commissioners, shall and may from time to time make regulations for the division and distribution of the patronage and power of nomination of and to the offices, commands and employments in the said territories, and in all or any of the presidencies thereof, among the said governor general in council, governor general, governors in council, governors, commander in chief, and other commanding officers respectively appointed or to be appointed under this Act

Departure of governor general, etc, for Europe, to be a resignation

79. * * * * *² the return to Europe or the departure from India with intent to return to Europe of any governor general of India, governor, member of council, or commander in chief, shall be deemed in law a resignation and avoidance of his office or employment,

Resignation in India to be by deed

and no act or declaration of any governor general, or governor, or member of council, other than as aforesaid, excepting a declaration in writing under hand and seal, delivered to the secretary for the public

¹ Rest of the section as repealed by 43 Vict, c 3, s 5

² Enacting words repealed (U. K.), 51 & 52 Vict, c 57 (S. L. R.)

department of the presidency wherein he shall be, in order to its being recorded, shall be deemed or held as a resignation or surrender of his said office,

and the salary and other allowances of any such governor general or other officer respectively shall cease from the day of such his departure, resignation, or surrender,

Salary to
cease on de-
parture or
resignation

and if any such governor general or member of council of India shall leave the said territories, or if any governor or other officer whatever in the service of the said company shall leave the presidency to which he shall belong, other than in the known actual service of the said company, the salary and allowances appertaining to his office shall not be paid or payable during his absence to any agent or other person for his use,

and in the event of his not returning, or of his coming to Europe, his salary and allowances shall be deemed to have ceased on the day of his leaving the said territories, or the presidency to which he may have belonged

Provided that it shall be lawful for the said company to make such payment as is now by law permitted to be made to the representatives of their officers or servants who, having left their stations intending to return thereto, shall die during their absence

Payment to
representa-
tives of
officers dying
during
absence

80. * * * *¹ every wilful disobeying, and every wilful omitting, forbearing, or neglecting to execute the orders or instructions of the said court of directors by any governor general of India, governor, member of council, or commander in chief, or by any other of the officers or servants of the said company, unless in cases of necessity (the burthen of the proof of which necessity shall be on the person so disobeying or omitting, forbearing or neglecting, to execute such orders or instructions as aforesaid), and every wilful breach of the trust and duty of any office or employment by any such governor general, governor, member of council, or commander in chief, or any of the officers or servants of the said company, shall be deemed and taken to be a misdemeanor at law, and shall or may be proceeded against and punished as such by virtue of this Act

Disobedience
of orders and
breach of
trust by offi-
cers or ser-
vants of the
company in
India, mis-
demeanors

81 to 83 [*Rep 53 & 54 Vict, c 33 (S L R)*]

84 * * * *¹ the said governor general in council shall and he is hereby required, as soon as conveniently may be, to make laws or regulations providing for the prevention or punishment of the illicit entrance into or residence in the said territories of persons not authorized to enter or reside therein

Laws against
illicit resi-
dence to be
made

¹ Enacting words repealed (U K), 51 & 52 Vict, c 57 (S L R)

85 [*Rep 53 & 54 Vict, c 33 (S L R)*]

Lands within
the Indian
territories
may be
purchased

86. * * * *¹ it shall be lawful for any natural-born subject of his Majesty authorized to reside in the said territories to acquire and hold lands, or any right, interest, or profit in or out of lands, for any term of years, in such part or parts of the said territories as he shall be so authorized to reside in

Provided always, that nothing herein contained shall be taken to prevent the said governor general in council from enabling, by any laws or regulations, or otherwise, any subjects of his Majesty to acquire or hold any lands, or rights, interests, or profits in or out of lands, in any part of the said territories, and for any estates or terms whatever

No disability
for office
under the
company in
respect of
religion,
colour, etc

87 * * * *¹ no native of the said territories, nor any natural-born subject of his Majesty resident therein, shall, by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place, office, or employment under the said company

88 [*Rep as to U K 51 & 52 Vict, c 57 (S L R)* Omitted as being obsolete]

If the King
erects bishop
ricks of
Madras and
Bombay,
and
paid to
bishops

89 [*Recital Rep 53 & 54 Vict, c 33 (S L R)*] In case it shall please his Majesty to erect, found, and constitute two bishopricks, one to be styled the bishoprick of Madras and the other the bishoprick of Bombay, and from time to time to nominate and appoint bishops to such bishopricks under the style and title of bishops of Madras and Bombay respectively, there shall be paid from and out of the revenues of the said territories to such bishops respectively the sum of twenty-four thousand sicca rupees by the year

Such salaries
to commence
from time of
taking office,
and to be in
lieu of all
fees, etc

90. * * * *¹ the said salaries shall commence from the time at which such persons as shall be appointed to the said office of bishop shall take upon them the execution of their respective offices,

and such salaries shall be in lieu of all fees of office, perquisites, emoluments, or advantages whatsoever,

and no fees of office, perquisites, emoluments, or advantages whatsoever shall be accepted, received, or taken by such bishop or either of them, in any manner or on any account or pretence whatsoever, other than the salaries aforesaid,

and such bishops respectively shall be entitled to such salaries so long as they shall respectively exercise the functions of their several offices in the British territories aforesaid

91. [*Rep 43 Vict, c 3, s 5*]

Jurisdiction

92 Provided always * * * *¹ that such bishops shall not

¹ Enacting words repealed (U K), 51 & 52 Vict, c. 57 (S L R)

have or use any jurisdiction or exercise any episcopal functions whatsoever, either in the said territories or elsewhere, but only such jurisdiction and functions as shall or may from time to time be limited to them respectively by his Majesty by his royal letters patent under the great seal of the said United Kingdom ¹ of such bishops.

93 * * * *² it shall and may be lawful for his Majesty from time to time, if he shall think fit, by his royal letters patent under the great seal of the said United Kingdom, to assign limits to the diocese of the bishoprick of Calcutta and to the dioceses of the said bishopricks of Madras and Bombay respectively, and from time to time to alter and vary the same limits respectively, as to his Majesty shall seem fit, and to grant to such bishops respectively within the limits of their respective dioceses the exercise of episcopal functions, and of such ecclesiastical jurisdiction as his Majesty shall think necessary for the superintendence and good government of the ministers of the United Church of England and Ireland therein The King may by letters patent assign limits to the dioceses, etc

94 Provided always * * * *² that the bishop of Calcutta for the time being shall be deemed and taken to be the metropolitan bishop in India, and as such shall have, enjoy, and exercise all such ecclesiastical jurisdiction and episcopal functions, for the purposes aforesaid, as his Majesty shall by his royal letters patent under the great seal of the said United Kingdom think necessary to direct, subject nevertheless to the general superintendence and revision of the archbishop of Canterbury for the time being, and that the bishops of Madras and Bombay for the time being respectively shall be subject to the bishop of Calcutta for the time being as such metropolitan and shall at the time of their respective appointments to such bishopricks or at the time of their respective consecrations as bishop take an oath of obedience to the said bishop of Calcutta in such manner as his Majesty by his said royal letters patent shall be pleased to direct The bishop of Calcutta to be Metropolitan in India

95 [*Rep 53 & 54 Vict, c 33 (S L R)*]

96 * * * *² it shall and may be lawful for his Majesty, his heirs and successors, by warrant under his royal sign manual countersigned by the chancellor of the Exchequer for the time being, to grant to any such bishop of Madras or Bombay respectively who shall have exercised in the British territories aforesaid for fifteen years the office of such bishop, a pension not exceeding eight hundred pounds per annum to be paid quarterly by the said company The King may grant certain pensions to bishops of Madras and Bombay

97 * * * *² in all cases when it shall happen the said person nominated and appointed to be bishop of either of the said bishopricks of Madras or Bombay shall depart this life within six calendar Payments in respect of salary of a bishop of

¹ See 15 & 16 Vict, c 52, s 1

² Enacting words repealed (U K), 51 & 52 Vict, c 57 (S L R.)

THE SUPERANNUATION ACT, 1834 ¹

(4 and 5 Will 4, c. 24)

An Act to alter, amend, and consolidate the Laws for regulating the Pensions, Compensations, and Allowances to be made to Persons in respect of their having held Civil Offices in His Majesty's Service

[25th July, 1834]

[*Preamble Rep (U K) 51 & 52 Vict , c 57 (S L R)*]

1 to 5 [*Rep 32 & 33 Vict , c 60, s 9*]

6 ² And whereas the principle of the regulations for granting allowances of this nature is and ought to be founded on a consideration, not only of the services performed by the individual to the state, but of the inadequacy of his private fortune to maintain his station in life

Be it therefore enacted, that ³* * * whenever any person shall seek to obtain any one of the pensions before mentioned, his application for that purpose shall be made in writing to the ⁴* * * Treasury, to which he shall subscribe his name, and which shall contain not only a statement of the services performed by him, and the grounds on which such pension is claimed, but a specific declaration that the amount of his income from other sources is so limited as to bring him within the intent and meaning of this Act and the principle herein-above declared,

and without such declaration no pension as herein-before provided or authorized shall be granted

7 [*Rep 32 & 33 Vict , c 60, s 9*]

8 [*Rep as to U K 37 & 38 Vict , c 35 (S L R) Omitted as being inapplicable to India*]

9 * * * ⁵ from and after the passing of this Act the superannuation allowances to be granted to such officers and clerks who shall have entered the public service prior to the fifth day of August one thousand eight hundred and twenty-nine (except only as herein-after is authorized) shall not exceed the following proportions with reference to the amount of their salaries and the periods of their services respectively, (videlicet,)

To an officer, clerk or person who shall have served ten years and upwards, and under fifteen years, any annual allowance not exceeding in amount four-twelfths of the annual salary and emoluments of his office

¹ Amended by 50 & 51 Vict , c 67

² By s 7 of 32 & 33 Vict , c 60, s 6 of this Act is applied to pensions under that Act

³ The words " from and after the passing of this Act " were repealed (U K) by 51 & 52 Vict c. 57 (S L R)

⁴ The words " commissioners of his Majesty's " were repealed (U K) by 53 & 54 Vict , c 33 (S L R)

⁵ Enacting words repealed (U K.), 51 & 52 Vict , c 57 (S L R)

Declaration
to be made by
persons
claiming pen-
sions for poli-
tical services

Superannua-
tion allow-
ances to per-
sons who
entered the
public service
before 5th
Aug 1829

For fifteen years and upwards, and under twenty years, not exceeding five-twelfths of such salary and emoluments

For twenty years and upwards, and under twenty-five years, not exceeding six-twelfths of such salary and emoluments

For twenty-five years and upwards, and under thirty years, not exceeding seven-twelfths of such salary and emoluments

For thirty years and upwards, and under thirty-five years, not exceeding eight-twelfths of such salary and emoluments

For thirty-five years and upwards, and under forty years, not exceeding nine-twelfths of such salary and emoluments

For forty years and upwards, and under forty-five years, not exceeding ten-twelfths of such salary and emoluments

For forty-five years and upwards, and under fifty years, not exceeding eleven-twelfths of such salary and emoluments

And for fifty years and upwards, any annual allowance not exceeding the net amount of the salary and emoluments of his office

10 and 11. [*Rep 22 Vict , c 26, s 1*]

12. Provided always * * * ^{*1} that the superannuation allowance to be granted to any officer or person after the passing of this Act shall not be computed upon the amount of the salary enjoyed by him at the time of his retirement, unless he shall have been in the receipt of the same, or in the class from which he retires, for a period of at least three years immediately before the granting of such superannuation allowance, Allowances to be calculated on average amount of salary received for the three years before superannuation

and in case he shall not have enjoyed his then existing salary or have been in such class for that period, such superannuation allowance shall be calculated upon the average amount of salary received by such person for three years next preceding the commencement of such allowance

13 to 15 [*Rep 22 Vict , c 26, s 1*]

16 [*Rep 50 & 51 Vict , c 67, s 14*]

17 [*Rep 22 Vict , c 26, s 1*]

18. * * * ^{*1} no compensation for any office abolished, nor any special allowance or remuneration for good services to any person holding or having held any civil office in any public department, shall be charged upon the incidents or any other fund of any such department, No compensation on abolition of office, or special allowance, to be charged upon the funds of any department, and no compensation or superannuation

and no such compensation, for any allowance or compensation in the nature of superannuation or retired allowance or reward to any such person in respect of his having held any public office or employment, or

¹ Enacting words repealed (U K), 51 & 52 Vict , c 57 (S L R)

allowance to be granted except by order of his Majesty in council

having been engaged in any public service, shall be granted, allowed, or paid, other than under the authority of an order of his Majesty in council, or by the ^{1*} * * * Treasury ^{2*} * * *

19 [*Rep 22 Vict, c 26, s 1*]

Superannuation allowance to be suspended or reduced during receipt of salary for efficient services

20. Provided always * * * ³ that in case any person enjoying any superannuation allowance in consequence of retiring from office on account of age, infirmity, or any other cause or enjoying any compensation for past services upon the abolition or reduction of office, shall be appointed to fill any office in any public department every such allowance or compensation shall cease to be paid for any period subsequent to such appointment if the annual amount of the profits of the office to which he shall be appointed shall be equal to those of the office formerly held by him, and in case they shall not be equal to those of his former office then no more of such superannuation allowance or compensation shall be paid to him than what with the salary of his new appointment shall be equal to that of his former office

Act not to extend to military or naval half pay, etc, except as herein after provided

21 Provided always * * * ³ that nothing herein contained with respect to compensation, superannuation, or allowance for civil services shall extend or be construed to extend to any military or naval half pay, or allowance in lieu of half pay, or to any military or naval allowance or pensions granted or to be granted under the regulations of any order of his Majesty in council in any of the respective departments of ^{4*} * * * the Admiralty, the secretary at war, and the master general of the ordnance, except as herein-after is provided with respect to the same

Account of public offices, salaries, pensions and allowances, and of increase and diminution thereof, to be annually laid before Parliament

22 * * * ³ between the first day of February and the twenty-fifth day of March in every year, or if Parliament shall not be sitting during any part of that period, then within twenty days after the next meeting of Parliament, there shall be laid before both Houses of Parliament an account of every increase and diminution which shall have taken place within the preceding year, ending on the thirty-first day of December, in the number of persons employed in all public offices or departments under the crown, and in the salaries, emoluments, allowances, and expenses, which shall have taken place, or been paid, granted, received, or incurred for and in respect of all officers and persons, belonging to or employed in all such public offices or departments, specifying the amount and nature thereof, and distinguishing every increase and diminution in the amount of all allowances or compensations granted as retired allowances or superannuations to any person having held any office, place, or employment in any such public office or department, and

¹, ² The words "commissioners of his Majesty's" and "or any three or more of them," were repealed (U K) by 53 & 54 Vict, c 33 (S L R)

³ Enacting words repealed (U K) 51 & 52 Vict, c 57 (S L R)

⁴ The words "the commissioners of" were repealed (U K) by 53 & 54 Vict, c 33 (S L R).

also the time and length of service of every such person, and the amount of the salary and emoluments received by such person immediately preceding his superannuation or retirement and the nature of his services, and the grounds upon which such increase or diminution in the establishment of every such public office or department, or of any such salary, emolument allowance, compensation, or superannuation, shall have been granted or made, and also specifying the name of every person receiving such allowance or compensation who may have died in the course of the year, together with the amount of the annual allowance payable to such person

23 Provided always that accounts of all compensations for offices abolished and of all allowances in the nature of superannuation or retired allowances to all other persons in respect of their having held any public office or employment under the crown shall annually, at the period lastly provided, be laid before the Commons House of Parliament

Accounts of compensations and superannuation allowances to be laid before House of Commons annually.

24 [*Rep 22 Vict, c 26, s 1*]

25. Provided always that all half pay and allowances in lieu of half pay in the several departments of the army, ordnance, navy, and marines and all military and naval allowances or pensions granted or which shall be granted in any of such departments under the authority of any order in council shall be annually laid before the Commons House of Parliament in separate estimates, at the same time with the ordinary estimates of those respective departments, and shall be kept distinct from all pensions compensations, superannuation and retired allowances in any of the civil offices of those departments respectively

Half pay and military and naval pensions to be laid before Parliament in separate estimates

pensation,
etc, shall be
granted

the average amount of such emoluments for the three last preceding years

29 [*Rep as to U K 37 & 38 Vict, c 85 (S L R)* Omitted as being inapplicable to India]

Act not to
give an abso-
lute right to
compensation
or superannu-
ation allow-
ances, or to
prevent dis-
missal of per-
sons without
compensa-
tion.

30. Provided always * * * *¹ that nothing in this Act contained shall extend or be construed to extend to give any person an absolute right to compensation for past services, or to any superannuation or retiring allowance under this Act, or to deprive the ²* * * Treasury, and the heads or principal officers of the respective departments, of their power and authority to dismiss any person from the public service without compensation

31 and Schedule [*Rep as to U K 37 & 38 Vict, c 35 (S L R)* Omitted as being spent]

THE INDIA (NORTH-WEST PROVINCES) ACT, 1835

(5 & 6 Will 4, c 52)

An Act to authorize the Court of Directors of the East India Company to suspend the Execution of the Provisions of the Act of the Third and Fourth William the Fourth, Chapter Eighty-five, so far as they relate to the Creation of the Government of Agra

[31st August, 1835]

[*Preamble recites 3 & 4 Will 4, c 85, s 38, as to the division of Bengal into two Presidencies Rep 53 & 54 Vict, c 33 (S L R)*]

1 [*Rep 53 & 54 Vict, c 33 (S L R)* It authorized the directors to suspend the execution of the 3 & 4 Will 4, c 85, s 38 The suspension is continued by 16 & 17 Vict, c 95, s 15]

Governor
general, dur-
ing such
suspension,
may appoint
a lieutenant-
governor of
the north-
western prov-
inces.

2 * * * *³ for and during such time as the execution of such provisions aforesaid shall be suspended by the authority aforesaid, it shall and may be lawful for the governor general of India in council to appoint from time to time any servant of the East India Company, who shall have been ten years in their service in India, to the office of lieutenant-governor of the north-western provinces now under the presidency of Fort William in Bengal * * * *

¹ Enacting words repealed (U K), 51 & 52 Vict., c 57 (S L R)

² The words "commissioners of his Majesty's" were repealed (U K.) by 53 & 54 Vict., c 33 (S L R)

³ Enacting words repealed 51 & 52 Vict, c 57 (S L R)

⁴ Words repealed by 53 & 54 Vict, c 33 (S L R), have been omitted

THE STAMP DUTIES ACT, 1835

(5 & 6 Will. 4, c. 64)

An Act to alter certain Duties of Stamps and Assessed Taxes, and to regulate the Collection thereof

[9th September, 1835]

[Preamble]

1 & 2 [Rep as to U K 33 & 34 Vict , c 99 Omitted as being inapplicable to India]

3. [Rep as to U K 37 & 38 Vict , c 35 (S L R) Omitted as being inapplicable to India]

4 [Recital and introductory words rep (U K) 53 & 54 Vict , c 51 (S L R)] it shall be lawful for the commissioners of his Majesty's Treasury * * *¹ from time to time to compound and agree with the East India Company for the payment by the said company of such an annual sum of money as the said commissioners shall deem to be a reasonable composition for and in lieu of the stamp duties which would otherwise be payable on such bonds as aforesaid, to be made and issued by the said company at any time during the term for which such composition shall be made, which said sum of money so agreed upon shall be paid to the receiver general of stamps and taxes by ~~the~~ equal half-yearly payments on such days in every year during the said term as the said commissioners shall appoint for that purpose. and the payment thereof accordingly shall be secured by the bond of the said company, which is hereby exempted from stamp duty, and every such composition

Treasury may compound with the East India Company for the stamp duties on India bonds

5. [Rep 23 & 24 Vict., c. 5, s. 2]

6. [Rep as to U K 37 & 38 Vict., c. 35 (S L R) Omitted as being inapplicable to India]

7. [Rep as to U K 33 & 34 Vict., c. 99 Omitted as being inapplicable to India]

8 & 9 [Rep 32 & 33 Vict., c. 14, s. 39.]

10 to 13. [Rep. 43 & 44 Vict., c. 19, s. 4.]

14 to 17. [Rep 32 & 33 Vict., c. 14, s. 39]

THE INDIA OFFICERS' SALARIES ACT, 1837.

(7 Will. 4 & 1 Vict., c. 47.)

An Act to repeal the prohibition of the payment of the Salaries and Allowances of the East India Company's Officers during their absence from their respective stations in India

[12th July, 1837]

[Preamble recites 33 Geo 3, c. 52, 3 & 4 Will 4, c. 85 Rep. (U K) 53 & 54 Vict., c. 51 (S L R)]

1. * * * *¹ So much and such part or parts of the said two Acts passed respectively in the thirty-third year of the reign of his Majesty King George the Third and in the third and fourth years of the reign of his said late Majesty King William the Fourth and of any other Act or provision of the law as enacts that if any governor or other officer whatever in the service of the said company shall leave the presidency to which he shall belong, other than in the known actual service of the said company, the salary and allowances appertaining to his office shall not be paid or payable during his absence to any agent or other person for his use, shall not extend to the case of any officer or servant of the company under the rank of governor or member of council who shall quit the presidency to which he shall belong in consequence of sickness, under such rules as may from time to time be established by the governor general in India in council, or by the governor in council of such presidency, as the case may be, and who shall proceed to any place within the limits of the East India company's charter, or to the Cape of Good Hope, or to the Mauritius, or to the island of St Helena, nor to the case of any officer or servant of the said company, under such rank as aforesaid, who, with the permission of the government of the presidency to which he shall belong shall quit such presidency in order to proceed

much of
recited
etc., as
prohibits
payment
of salaries to
officers in the
service of the
East India
company
during their
absence shall
not extend to
cases of
absence for
sickness
under rules
established by
governor
general in
council, etc

nor to cases
of officers
quitting one

¹ Introductory words repealed (U K), 53 & 54 Vict., c. 51 (S L R).

7 Will 4 & 1 Vict, c 47.] *The India Officers' Salaries Act, 1837.* 219
 3 & 4 Vict, c. 105.] *The Debtors (Ireland) Act, 1840.*

to another presidency for the purpose of embarking thence for Europe, until the departure of such officer or servant from such last-mentioned presidency with a view to return to Europe, so as that the port of such departure for Europe shall not be more distant from the place which he shall have quitted in his own presidency than any port of embarkation within such presidency

presidency
for another,
in order to
embark for
Europe

2 Provided always * * * *^{*1} that no such rule so to be established as aforesaid shall have any force or validity until the same shall have been approved by the court of directors of the said company, subject to the control of the commissioners for the affairs of India, in like manner as is provided by the said Act of the third and fourth years of the reign of his late Majesty King William the Fourth

No such rule
valid till ap-
proved by
court of
directors,
subject to the
control of
commissioners
for affairs of
India

3. * * * *^{*1} it shall be lawful for the said court of directors, subject to such control as aforesaid, to direct the refunding by any officer or servant of the said company, or by the representatives of any such officer or servant, of the whole or any part of the salary or allowance which he or they may have received under or by virtue of any such rule so to be established as aforesaid, if it shall appear to the said court, subject to such control as aforesaid, that the permission to such officer or servant to quit the presidency to which he shall belong hath been improperly granted or obtained,

Court of
directors,
subject to
aforesaid
control, may
direct the
refund of
any part of
the allowance
paid under
any such rule

and such sum as the said court, subject to such control as aforesaid, shall direct such officer or servant or the representatives of such officer or servant to refund, shall be a debt due to the said company, and shall be recoverable by them in any court in like manner as any debt may now or hereafter shall be recovered by them

THE DEBTORS (IRELAND) ACT, 1840

(3 & 4 Vict, c 105)

*An Act * * * *^{*2} for extending the remedies of creditors against the property of Debtors, and for the further amendment of the Law and the better advancement of justice in Ireland*

[10th August, 1840]

* * * * *

66 [Recital of 13 Geo 3, c 63 1 Will 4, c 22 Rep (U K) 53
 § 54 Vict, c 51 (S L R)]

¹ Enacting words repealed, 51 & 52 Vict, c 57 (S L R)

² Words repealed (U K) by 51 & 52 Vict, c 57 (S L R), have been omitted

Powers of
13 Geo 3,
c 63, extend-
ed to all the
actions in the
courts at
Dublin when
examination
of witnesses
by commis-
sion shall
appear
necessary

All and every the powers, authorities, provisions, and matters con-
tained in the said recited Act, of the thirteenth year of the reign of his
said late Majesty King George the Third, relating to the examination
of witnesses in India, shall be and the same are, with reference to all
actions in any of her Majesty's courts of law at Dublin, hereby extended
to all colonies, islands, plantations, and places under the dominion of
her Majesty in foreign parts, and to the judges of the several courts
therein, and to all actions depending in any of her Majesty's courts of
law at Dublin, in what place or county soever the cause of action may
have arisen, and whether the same may have arisen within the jurisdic-
tion of the court, to the judges whereof the writ or commission may be
directed, or elsewhere, when it shall appear that the examination of
witnesses under a writ or commission issued in pursuance of the authority
hereby given will be necessary or conducive to the due administration
of justice in the matter wherein such writ shall be applied for

Judges to
whom the
commission is
directed may
enforce the
attendance,
etc., of wit-
nesses

67. * * * * *¹ when any writ or commission shall
issue under the authority of the said last-mentioned Act and of this Act,
or of the power herein-before given by this Act, the judge or judges to
whom the same shall be directed shall have the like power to compel
and enforce the attendance and examination of witnesses as the court
whereof they are judges does or may possess for that purpose in suits
or causes depending in such court

* * * * *

THE COPYRIGHT ACT, 1842²

(5 & 6 Vict, c. 45.)

An Act to amend the Law of Copyright

[1st July, 1842]

[Preamble Rep (U K) 53 & 54 Vict, c 51 (S L R)]

1. [Rep as to U K 37 & 38 Vict, c 96 (S. L R) Omitted as
being spent and inapplicable to India]

Interpreta-
tion of Act
"Book"

2. * * * * *¹ in the construction of this Act the
word "book" shall be construed to mean and include every volume, part
or division of a volume, pamphlet, sheet of letter-press, sheet of music,
map, chart, or plan separately published,

¹ Enacting words repealed (U K), 51 & 52 Vict, c 57 (S L R)

² Extended by the Indian Copyright Act, 1847 (XX of 1847) The Act is repealed by
the Copyright Act, 1911 (1 & 2 Geo 5, c 46), which will come into operation in British
India on the date on which the Act is proclaimed therein, see s 32 (2) (d) of the Act, post

The words "dramatic piece" shall be construed to mean and include "Dramatic every tragedy, comedy, play, opera, farce, or other scenic, musical, or ^{Pioco} dramatic entertainment,

The word "copyright" shall be construed to mean the sole and "Copyright" exclusive liberty of printing or otherwise multiplying copies of any subject to which the said word is herein applied,

The words "personal representative" shall be construed to mean "Personal re- and include every executor, administrator, and next of kin entitled to presentative" administration,

The word "assigns" shall be construed to mean and include every "Assigns" person in whom the interest of an author in copyright shall be vested, whether derived from such author before or after the publication of any book, and whether acquired by sale, gift, bequest, or by operation of law, or otherwise,

The words "British dominion" shall be construed to mean and "British do- include all parts of the United Kingdom of Great Britain and Ireland, minion" the Islands of Jersey and Guernsey, all parts of the East and West Indies, and all the colonies, settlements, and possessions of the crown which now are or hereafter may be acquired,

and whenever in this Act, in describing any person, matter, or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and to be applied to several persons as well as one person, and females as well as males, and several matters or things as well as one matter or thing, respectively, unless there shall be something in the subject or context repugnant to such construction

3. * * * * * the copyright in every book which ^{Endurance of term of copyright} shall after the passing of this Act be published in the lifetime of its author, shall endure for the natural life of such author and for the ^{Property of the author} further term of seven years, commencing at the time of his death and ^{shall be the property of such author and his assigns} shall be the property of such author and his assigns

Provided always, that if the said term of seven years shall expire ^{before the end of forty-two years from the first publication of such book} before the end of forty-two years from the first publication of such book the copyright shall in that case endure for such period of forty-two years,

and that the copyright in every book which shall be published ^{the death of its author shall endure for the term of forty-two years from the first publication thereof, and shall be the property of the author} after the death of its author shall endure for the term of forty-two years from the first publication thereof, and shall be the property of the ^{of the author's manuscript from which such book shall be first published} author of the author's manuscript from which such book shall be first published and his assigns

In cases of subsisting copyright the term to be extended except when it shall belong to an assignee for other consideration than natural love and affection, in which case it shall cease at the expiration of the present term, unless its extension be agreed to between the proprietor and the author

4. [Recital] * * *¹ The copyright which at the time of passing this Act shall subsist in any book theretofore published (except as herein-after mentioned) shall be extended and endure for the full term provided by this Act in cases of books thereafter published, and shall be the property of the person who at the time of passing of this Act shall be the proprietor of such copyright

Provided always, that in all cases in which such copyright shall belong in whole or in part to a publisher or other person who shall have acquired it for other consideration than that of natural love and affection, such copyright shall not be extended by this Act, but shall endure for the term which shall subsist therein at the time of passing of this Act, and no longer, unless the author of such book, if he shall be living, or the personal representative of such author, if he shall be dead, and the proprietor of such copyright, shall, before the expiration of such term, consent and agree to accept the benefits of this Act in respect of such book, and shall cause a minute of such consent in the form in that behalf given in the schedule to this Act annexed to be entered in the book of registry hereafter directed to be kept, in which case such copyright shall endure for the full term by this Act provided in cases of books to be published after the passing of this Act, and shall be the property of such person or persons as in such minute shall be expressed

Judicial committee of the privy council may license the republication of books which the proprietor refuses to republish after death of the author

5. [Recital] * * * *² It shall be lawful for the judicial committee of her Majesty's privy council, on complaint made to them that the proprietor of the copyright in any book after the death of its author has refused to republish or to allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a licence to such complainant to publish such book, in such manner and subject to such conditions as they may think fit, and * * *³ it shall be lawful for such complainant to publish such book according to such licence

Copies of books published after the passing of this Act, and of all subsequent editions, to be delivered within certain times at the British Museum

6 * * * *³ a printed copy of the whole of every book which shall be published after the passing of this Act, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be published, and also of any second or subsequent edition which shall be so published, with any additions or alterations, whether the same shall be in letter-press, or in the maps, prints, or other engravings belonging thereto, and whether the first edition of such book shall have been published before or after the passing of this Act and also of any second or subsequent edition of every book of which the first or some preceding

¹ Recital and introductory words were repealed (U K) by 53 & 54 Vict., c. 51 (S L R)

² Recital and enacting words and the word "that" before "it shall" were repealed (U K) by 53 & 54 Vict., c. 51 (S L R)

³ Enacting words: repealed (U K.), 51 & 52 Vict., c. 57 (S L R)

edition shall not have been delivered for the use of the British Museum, bound, sewed, or stitched together and upon the best paper on which the same shall be printed, shall within one calendar month after the day on which any such book shall first be sold, published, or offered for sale within the bills of mortality, or within three calendar months if the same shall first be sold, published, or offered for sale in any other part of the United Kingdom or within twelve calendar months after the same shall first be sold, published, or offered for sale in any other part of the British dominions, be delivered on behalf of the publisher thereof at the British Museum

7. * * * *¹ every copy of any book which under the provisions of this Act ought to be delivered as aforesaid shall be delivered at the British Museum between the hours of ten in the forenoon and four in the afternoon on any day except Sunday Ash Wednesday, Good Friday, and Christmas Day, to one of the officers of the said museum, or to some person authorized by the trustees of the said museum to receive the same, Mode of delivering copies at the British Museum

and such officer or other person receiving such copy is hereby required to give a receipt in writing for the same,

and such delivery shall to all intents and purposes be deemed to be good and sufficient delivery under the provisions of this Act

8. * * * *¹ a copy of the whole of every book, and of any second or subsequent edition of every book containing additions and alterations, together with all maps and prints belonging thereto, which after the passing of this Act shall be published, shall, on demand thereof in writing, left at the place of abode of the publisher thereof at any time within twelve months next after the publication thereof, under the hand of the officer of the Company of Stationers who shall from time to time be appointed by the said company for the purposes of this Act, or under the hand of any other person thereto authorized by the persons or bodies politic and corporate, proprietors and managers of the libraries following, [videlicet,] the Bodleian library at Oxford, the public library at Cambridge, the library of the Faculty of Advocates at Edinburgh, the library of the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, be delivered, upon the paper of which the largest number of copies of such book or addition shall be printed for sale, in the like condition as the copies prepared for sale by the publisher thereof respectively, within one month after demand made thereof in writing as aforesaid, to the said officer of the said Company of Stationers for the time being, which copies the said officer shall and he is hereby required to receive at the hall of the said company, for A copy of every book to be delivered within a month after demand to the officer of the Stationers Company, for the following libraries, the Bodleian at Oxford, the public library at Cambridge, the library of the Faculty of Advocates at Edinburgh, and that of Trinity College, Dublin

¹ Enacting words repealed (U K), 51 & 52 Vict , c. 57 (S L R)

the use of the library for which such demand shall be made within such twelve months as aforesaid;

and the said officer is hereby required to give a receipt in writing for the same, and within one month after any such book shall be so delivered to him as aforesaid to deliver the same for the use of such library

Publishers
may deliver
the copies to
the libraries,
instead of at
the Stationers
Company

9 Provided also * * * *¹ that if any publisher shall be desirous of delivering the copy of such book as shall be demanded on behalf of any of the said libraries at such library, it shall be lawful for him to deliver the same at such library, free of expense, to such librarian or other person authorized to receive the same (who is hereby required in such case to receive and give a receipt in writing for the same),

and such delivery shall to all intents and purposes of this Act be held as equivalent to a delivery to the said officer of the Stationers Company

Penalty for
default in
delivering
copies for the
use of the
libraries

10 * * * *¹ if any publisher of any such book or of any second or subsequent edition of any such book, shall neglect to deliver the same pursuant to this Act, he shall for every such default forfeit, besides the value of such copy of such book or edition which he ought to have delivered, a sum not exceeding five pounds to be recovered by the librarian or other officer (properly authorized) of the library for the use whereof such copy should have been delivered, in a summary way, on conviction before two justices of the peace for the county or place where the publisher making default shall reside, or by action of debt or other proceeding of the like nature, at the suit of such librarian or other officer, in any court of record in the United Kingdom, in which action, if the plaintiff shall obtain a verdict, he shall recover his costs reasonably incurred, to be taxed as between attorney and client

Book of re-
gistry to be
kept at
Stationers
Hall

11. * * * *¹ a book of registry wherein may be registered, as herein-after enacted, the proprietorship in the copyright of books, and assignments thereof, and in dramatic and musical pieces, whether in manuscript or otherwise, and licences affecting such copyright, shall be kept at the hall of the Stationers Company, by the officer appointed by the said company for the purposes of this Act, and shall at all convenient times be open to the inspection of any person, on payment of one shilling for every entry which shall be searched for or inspected in the said book,

Copies of
entries to be
given when
required, and
to be received
in evidence

and such officer shall, whenever thereunto reasonably required, give a copy of any entry in such book, certified under his hand, and impressed with the stamp of the said company, to be provided by them for

¹ Enacting words repealed (U K), 51 & 52 Vict , c 57 (S L R)

that purpose, and which they are hereby required to provide, to any person requiring the same, on payment to him of the sum of five shillings,

and such copies so certified and impressed shall be received in evidence in all courts, and in all summary proceedings, and shall be *prima facie* proof of the proprietorship or assignment of copyright or licence as therein expressed, but subject to be rebutted by other evidence, and in the case of dramatic or musical pieces shall be *prima facie* proof of the right of representation or performance, subject to be rebutted as aforesaid

12 * * * *¹ if any person shall wilfully make or cause to be made any false entry in the registry book of the Stationers Company, or shall wilfully produce or cause to be tendered in evidence any paper falsely purporting to be a copy of any entry in the said book, he shall be guilty of an indictable misdemeanor, and shall be punished accordingly

Making a false entry in the book of registry a misdemeanor

13 * * * *¹ it shall be lawful for the proprietor of copyright in any book heretofore published, or in any book hereafter to be published, to make entry in the registry book of the Stationers Company of the title of such book, the time of the first publication thereof, the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright, in the form in that behalf given in the schedule to this Act annexed, upon payment of the sum of five shillings to the officer of the said company,

Entries of copyright may be made in the book of registry

and it shall be lawful for every such registered proprietor to assign his interest, or any portion of his interest therein, by making entry in the said book of registry of such assignment, and of the name and place of abode of the assignee thereof, in the form given in that behalf in the said schedule, on payment of the like sum,

and such assignment so entered shall be effectual in law in all intents and purposes whatsoever, without being subject to any stamp duty, and shall be of the same force and effect as if such assignment had been made by deed

order such
entry to be
varied or
expunged

and upon any such application ^{1*} * * * such court ^{1*} * shall make such order for expunging, varying, or confirming such entry, either with or without costs as to such court ^{1*} * shall seem just,

and the officer appointed by the Stationers Company for the purposes of this Act shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same according to the requisitions of such order

Remedy for
the piracy
of books by
action on the
case

15. * * * ² if any person shall, in any part of the British dominions, * * * ³ print or cause to be printed, either for sale or exportation, any book in which there shall be subsisting copyright, without the consent in writing of the proprietor thereof, or shall import for sale or hire any such book so having been unlawfully printed from parts beyond the seas, or, knowing such book to have been so unlawfully printed or imported, shall sell, publish, or expose to sale or hire, or cause to be sold, published, or exposed to sale or hire, or shall have in his possession, for sale or hire, any such book so unlawfully printed, or imported, without such consent as aforesaid,

such offender shall be liable to a special action on the case at the suit of the proprietor of such copyright, to be brought in any court of record in that part of the British dominions in which the offence shall be committed

Provided always, that in Scotland such offender shall be liable to an action in the court of session in Scotland, which shall and may be brought and prosecuted in the same manner in which any other action of damages to the like amount may be brought and prosecuted there

In actions
for piracy
the defendant
to give notice
of the objec-
tions to the
plaintiff's
title on which
he means to
rely

16 * * * ⁴ in any action brought within the British dominions against any person for printing any such book for sale, hire, or exportation, or for importing, selling, publishing, or exposing to sale or hire, or causing to be imported, sold, published, or exposed to sale or hire, any such book, the defendant, on pleading thereto, shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action,

and if the nature of his defence be, that the plaintiff in such action was not the author or first publisher of the book in which he shall by such action claim copyright, or is not the proprietor of the copyright therein, or that some other person than the plaintiff was the author or first publisher of such book or is the proprietor of the copyright therein, then the defendant shall specify in such notice the name of the person who he alleges to have been the author, or first publisher of such book, or the proprietor of the copyright therein, together with the title of

¹ Words repealed (U K) by 56 & 57 Vict., c. 14 (S L R), have been omitted

² Enacting words repealed (U K), 51 & 52 Vict., c. 57 (S L R)

³ The words "after the passing of this Act" were repealed (U K) by 56 & 57 Vict., c. 14 (S L R)

⁴ Enacting words and the words "after the passing of this Act" were repealed (U K) by 51 & 52 Vict., c. 57 (S L R)

such book, and the time when and the place where such book was first published, otherwise the defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not the proprietor of the copyright therein,

and at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objections stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the copyright therein, than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication, with the title, time, and place specified in such notice

17. * * * *¹ it shall not be lawful for any person, not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written or printed and published in any part of the said United Kingdom, wherein there shall be copyright, and re-printed in any country or place whatsoever out of the British dominions, No person except the proprietor, etc., shall import into the British dominions for sale or hire any book first composed, etc., within the United Kingdom, and reprinted elsewhere, under penalty of forfeiture thereof, and also of 10*l* and double the value

and if any person, not being such proprietor or person authorized as aforesaid, shall import or bring, or cause to be imported or brought, for sale or hire, any such printed book, into any part of the British dominions, contrary to the true intent and meaning of this Act, or shall knowingly sell, publish, or expose to sale or let to hire, or have in his possession for sale or hire any such book, then every such book shall be forfeited, and shall be seized by any officer of customs or excise, and the same shall be destroyed by such officer, Books may be seized by officers of customs or excise

and every person so offending, being duly convicted thereof before two justices of the peace for the county or place in which such book shall be found, shall also for every such offence forfeit the sum of ten pounds, and double the value of every copy of such book which he shall so import or cause to be imported into any part of the British dominions, or shall knowingly sell, publish, or expose to sale or let to hire, or shall cause to be sold, published, or exposed to sale or let to hire, or shall have in his possession for sale or hire, contrary to the true intent and meaning of this Act, five pounds to the use of such officer of customs or excise, and the remainder of the penalty to the use of the proprietor of the copyright in such book

18 * * * *¹ when any publisher or other person shall, before or at the time of the passing of this Act, have projected, conducted, and carried on, or shall hereafter project, conduct, and carry on, Copyright in encyclopædias, periodicals,

¹ Enacting words, repealed (U K), 51 & 52 Vict., c. 57 (S L R)

and works
published
in a series,
reviews, or
magazines

or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any volumes, parts, essays, articles, or portions thereof, for publication in or as part of the same, and such work, volumes, parts, essays, articles, or portions shall have been or shall hereafter be composed under such employment, on the terms that the copyright therein shall belong to such proprietor, projector, publisher, or conductor, and paid for by such proprietor, projector, publisher, or conductor, the copyright in every such encyclopædia, review, magazine, periodical work, and work published in a series of books or parts, and in every volume, part, essay, article, and portion so composed and paid for, shall be the property of such proprietor, projector, publisher, or other conductor, who shall enjoy the same rights as if he were the actual author thereof, and shall have such term of copyright therein as is given to the authors of books by this Act, except only that in the case of essays, articles, or portions forming part of and first published in reviews, magazines, or other periodical works of a like nature, after the term of twenty-eight years from the first publication thereof respectively, the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this Act

Provided always, that during the term of twenty-eight years the said proprietor, projector, publisher, or conductor shall not publish any such essay, article, or portion separately or singly without the consent previously obtained of the author thereof, or his assigns

Proviso for
authors who
have reserved
the right
of publishing
their articles
in a separate
form.

Provided also, that nothing herein contained shall alter or affect the right of any person who shall have been or who shall be so employed as aforesaid to publish any such his composition in a separate form, who by any contract, express or implied, may have reserved or may hereafter reserve to himself such right, but every author reserving, retaining, or having such right shall be entitled to the copyright in such composition when published in a separate form, according to this Act, without prejudice to the right of such proprietor, projector, publisher, or conductor as aforesaid

Proprietors of
encyclopæ
dias, periodi-
cals
and works
published in
a series, may
enter at once
at Stationers
Hall, and
thereon have
the benefit
of the regis-

19 * * * *¹ the proprietor of the copyright in any encyclopædia, review, magazine, periodical work, or other work published in a series of books or parts, shall be entitled to all the benefits of the registration at Stationers Hall under this Act, on entering in the said book of registry the title of such encyclopædia, review, periodical work, or other work published in a series of books or parts, the time of the first publication of the first volume, number, or part thereof, or of the first number or volume first published after the passing of this Act in any such work which shall have been published heretofore, and the

¹ Enacting words repealed (U K), 51 & 52 Vict , c 57 (S L R)

name and place of abode of the proprietor thereof, and of the publisher thereof, when such publisher shall not also be the proprietor thereof

tration of
the whole

20. [*Recital of 3 & 4 Will 4, c 15* ¹]

The provisions of the said Act of his late Majesty, and of this Act, shall apply to musical compositions,

and ^{1*} * the sole liberty of representing or performing, or causing or permitting to be represented or performed, any dramatic piece or musical composition, shall endure and be the property of the author thereof, and his assigns, for the term in this Act provided for the duration of copyright in books,

and the provisions herein-before enacted in respect of the property of such copyright, and of registering the same, shall apply to the liberty of representing or performing any dramatic piece or musical composition, as if the same were herein expressly re-enacted and applied thereto, save and except that the first public representation or performance of any dramatic piece or musical composition shall be deemed equivalent, in the construction of this Act, to the first publication of any book

Provisions of
recited Act
and this Act
shall apply to
musical com-
positions,
and the sole
liberty of
representing
dramatic
pieces and
performing
musical com-
positions shall
remain in
the author
during the
term of copy-
right
provided by
this Act

Provided always, that in case of any dramatic piece or musical composition in manuscript, it shall be sufficient for the person having the sole liberty of representing or performing or causing to be represented or performed the same, to register only the title thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor thereof, and the time and place of its first representation or performance

of the proprietor of the copyright, and may be recovered by action

without the consent of the registered proprietor of such copyright in writing under his hand first obtained, shall be deemed to be the property of the proprietor of such copyright, and who shall be registered as such,

and such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention thereof, in an action of detinue, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of trover

No proprietor of copyright commencing after this Act shall sue or proceed for any infringement before making entry in the book of registry

24 * * * *¹ no proprietor of copyright in any book which shall be first published after the passing of this Act shall maintain any action or suit, at law or in equity, or any summary proceeding, in respect of any infringement of such copyright, unless he shall, before commencing such action, suit, or proceeding, have caused an entry to be made, in the book of registry of the Stationers Company, of such book, pursuant to this Act

Provided always, that the omission to make such entry shall not affect the copyright in any book, but only the right to sue or proceed in respect of the infringement thereof as aforesaid

Proviso for dramatic pieces

Provided also, that nothing herein contained shall prejudice the remedies which the proprietor of the sole liberty of representing any dramatic piece shall have by virtue of the Act passed in the third year of the reign of his late Majesty King William the Fourth, to amend the laws relating to dramatic literary property, or of this Act, although no entry shall be made in the book of registry aforesaid

Copyright shall be personal property

25 * * * *¹ all copyright shall be deemed personal property, and shall be transmissible by bequest, or, in case of intestacy, shall be subject to the same law of distribution as other personal property, and in Scotland shall be deemed to be personal and moveable estate

General issue

26² * * * *¹ if any action or suit shall be commenced or brought against any person or persons whomsoever for doing or causing to be done anything in pursuance of this Act, the defendant or defendants in such action may plead the general issue, and give the special matter in evidence,

Costs

and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become nonsuited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath

Limitation of actions,

and all actions, suits, bills, indictments, or informations for any offence that shall be committed against this Act, shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect

¹ Enacting words repealed (U. K.), 51 & 52 Vict., c. 57 (S. L. R.)

² S. 26 was repealed as to the U. K. by 56 & 57 Vict., c. 61, s. 2

except
actions, etc.,
in respect of
the delivery
of books

Saving the
rights of the
universities,
and the col
leges of Eton,
Westminster,
and Winches
ter

**Saving as to
subsisting
rights, con-
tracts, and
engagements**

29 * * * *1 this Act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British dominions ^{Extent of Act}

Extent of Act

No 1

We, the undersigned, A B of _____, the author of a certain book intituled Y Z [or the personal representative of the author, as the case may be], and C D of _____, do hereby certify, that we have consented and agreed to accept the bēnefits of the Act passed in the fifth year of the reign of Her Majesty Queen Victoria, cap _____², for the extension of the term of copyright therein provided by the said Act, and hereby declare that such extended term of copyright therein is the property of the said A B or C D

Witness

A	B
C	D

To the Registering Officer appointed by the Stationers Company

² This blank occurs in the Act as printed in the *Statutes Revised* 1893. The reference should, no doubt, be to the Act itself, i.e., to the 5 & 6 Vict., c. 45.

No. 2.

FORM of requiring Entry of Proprietorship

I, A B of _____, do hereby certify, that I am the proprietor of the copyright of a book, intituled Y Z , and I hereby require you to make entry in the register book of the Stationers Company of my proprietorship of such copyright, according to the particulars underwritten

Title of Book	Name of Publisher and Place of Publication	Name and Place of Abode of the Proprietor of the Copyright	Date of First Publication
		A.B	

Dated this day of 18 .
Witness, C D (Signed) A B

No 3

ORIGINAL Entry of Proprietorship of Copyright of a Book

Time of making the Entry	Title of Book.	Name of the Publisher and Place of Publication	Name and Place of Abode of the Proprietor of the Copyright	Date of First Publication
	Y Z	A B	C D	

No 4

FORM of Concurrence of the Party assigning in any Book previously
registered

I, A B of _____, being the assigner of the copyright of the

book hereunder described, do hereby require you to make entry of the assignment of the copyright therein

Title of Book	Assigner of the Copyright	Assignee of Copyright
Y Z	A B	C D

Dated this day of 18 .

(Signed) A B

No 5

FORM of Entry of Assignment of Copyright in any Book previously registered

Date of Entry	Title of Book	Assigner of the Copyright	Assignee of Copyright
	[Set out the title of the book, and refer to the page of the registry book in which the original entry of the copyright thereof is made]	A B	C.D

THE INDIAN BISHOPS ACT, 1842

(5 & 6 Vict , c. 119.)

An Act to enable Her Majesty to grant furlough Allowances to the Bishops of Calcutta, Madras and Bombay, who shall return to Europe for a limited Period after residing in India a sufficient time to entitle them to the highest scale of Pension

[12th August, 1842]

[Preamble]

1. In case her Majesty shall be pleased from time to time or at any time to grant permission to any bishop of Calcutta who shall have resided in the East Indies for a period of ten years, and to any bishop of Madras or of Bombay who shall have resided in the East Indies for a period of fifteen years, to return to Europe for a period not exceeding eighteen calendar months from the time of departure from the East Indies, then and in every such case it shall be lawful for her Majesty,

Her Majesty may grant allowance to East India bishops absent on leave

evidence on oath in any court of justice within such colonies or plantations,

and whereas doubts have arisen whether any laws which have been or which might be made by the legislatures of such colonies respectively to provide for the admissibility in such courts of the evidence of such persons are not or would not be repugnant to the law of England, and therefore null and void,

and it is expedient that such doubts should be removed

1 1* * * * No law or ordinance made or to be made by the legislature of any British colony for the admission of the evidence of any such persons as aforesaid in any court or before any magistrate within any such colony shall be or be deemed to have been null and void or invalid by reason of any repugnancy or supposed repugnancy of any such enactment to the law of England, but 1* * every law or ordinance made or to be made by any such legislature as aforesaid, for the admission before any such court or magistrate of the evidence of any such persons as aforesaid on any conditions thereby imposed, shall have such and the same effect, and shall be subject to the confirmation or disallowance of her Majesty in such and the same manner, as any other law or ordinance enacted for any other purpose by any such colonial legislature

Colonial laws for admission of the evidence of certain persons shall have the same effect as other laws

2 [*Rep as to U K 37 & 38 Vict, c 96 (S L R)* Omitted as being spent]

THE JUDICIAL COMMITTEE ACT, 1843

(6 & 7 Vict, c 38)

An Act to make further Regulations for facilitating the hearing of Appeals and other Matters by the Judicial Committee of the Privy Council

[28th July, 1843]

[*Preamble Rep (U K) 54 & 55 Vict, c 67 (S L R)*]

1 [*Rep as to U K 54 & 55 Vict, c 67 (S L R)* Omitted as being inapplicable to India]

2 * * * *² in respect of all incidents, emergents, dependents, and things adjoined to, arising out of, or connected with appeals from any ecclesiastical court, [or from any admiralty or vice admiralty court³] (save in giving a definitive sentence, or any interlocutory

Powers of the judicial committee and their surrogates in respect to

¹ Enacting words and the word "that" before "every" were repealed (U K) by 56 & 57 Vict, c 14 (S L R)

² Enacting words repealed (U K), 54 & 55 Vict, c 67 (S L R)

³ The words in square brackets in ss 2,*3, 5, 7, 12, 15 and ss 9 and 10, so far as relates to maritime causes, are repealed by 53 & 54 Vict, c 27, s 18, as respects any British possession, as from the commencement of that Act, and, as respects any courts out of Her Majesty's dominions, as from the date of any order applying that Act

interlocutory orders,
etc., in
appeals from
ecclesiastical
and admiralty
courts

decree having the force and effect of a definitive sentence), the said judicial committee and their surrogates shall have full power, subject to such rules, orders, and regulations as shall from time to time be made by the said judicial committee (with the approval of her Majesty in council), to make all such interlocutory orders and decrees, and to administer all such oaths and affirmations, and to do all such things as may be necessary, or the judges of the courts below appealed from or their surrogates in the cases appealed, or the judges of the court appealed to or their surrogates ¹[or the lords commissioners of appeals in prize causes or their surrogates] and the judges delegate or their condelegates under commissions of appeal under the great seal in ecclesiastical and maritime causes of appeal, would respectively have had before an Act passed in the third year of the reign of his late Majesty intituled "An Act for transferring the powers of the high court of delegates, both in ecclesiastical and maritime causes, to his Majesty in council," and the Judicial Committee Act, 1833, were passed

2 & 3 Will
4, c 92
3 & 4 Will
4, c 41

Who to be
surrogates
and examiners
of the
judicial committee
in
ecclesiastical
and admiralty
appeals

3. * * * *² the surrogates and examiners of the Arches Court of Canterbury ¹[and the High Court of Admiralty of England], and such persons as shall from time to time be appointed surrogates or examiners of the said courts, shall be by virtue of this Act surrogates and examiners respectively of the judicial committee of the privy council in all causes of appeal from ecclesiastical courts ¹[and from any admiralty or vice admiralty court]

4 [Rep as to U K 37 & 38 Vict, c 96 (S L R.) Omitted as being spent]

5 * * * *² subject to such rules and regulations as may from time to time be made by the said judicial committee with the approval of her Majesty in council, and save and in so much as the practice thereof may be varied by the said Acts of the reign of his late Majesty or by this Act, the said causes of appeal to her Majesty in council shall be commenced within same times, and conducted in the same form and manner and by the same persons and officers as if appeals in the same causes had been made to the Queen in Chancery, ¹[the High Court of Admiralty of England or the lords commissioners of appeal in prize causes respectively,

and all things otherwise lawfully done and expedited in the said causes of appeal by the registrar of the High Court of Admiralty of England, his deputy or deputies, in consequence of the passing of the said Acts of the reign of his late Majesty shall be deemed to be valid to all intents whatsoever]

6 [Rep as to U K 37 & 38 Vict, c 96 (S L R.) Omitted as being spent]

¹ See footnote 3, p 229, ante

² Enacting words repealed (U K.), 54 & 55 Vict, c. 67 (S. L R.).

Manner of
conducting
appeals be
fore the
judicial committee

7. * * * *¹ for better punishing contempts, compelling appearances, and enforcing judgments of her Majesty in council, and all orders and decrees of the said judicial committee or their surrogates, in all causes of appeal from ecclesiastical courts² [and from admiralty or vice admiralty courts], her Majesty in council and the said judicial committee and their surrogates shall have the same powers, by attachment and committal of the person to any of her Majesty's gaols, and subsequent discharge of any person so committed, as by any statute, custom, or usage belong to the judge of the High Court of Admiralty of England,

and the said judicial committee shall have the same immunities and privileges as are conferred on the judge of the High Court of Admiralty of England under an Act passed in the fourth year of the reign of her Majesty, intituled "An Act to improve the practice and extend the jurisdiction of the High Court of Admiralty of England" as fully as if the same had been thereby expressly given to the said judicial committee

8 [*Rep as to U K 37 & 38 Vict, c. 96 (S L. R.). Omitted as being obsolete*]

general order in council, and may proceed as if referred by a special order in each case

the giving or pronouncing of any order, decree, or sentence appealed from ¹* * * shall be referred to the judicial committee of the privy council,

and the said judicial committee and their surrogates shall have full power forthwith to proceed in the said appeals and the usual inhibition and citation shall be decreed and issued, and all usual proceedings taken, as if the same had been referred to the said judicial committee by a special order of her Majesty in council in each cause respectively

Costs may be awarded by the judicial committee, and taxed

12. * * * ² as well the costs of defending any decree or sentence appealed from as of prosecuting any appeal, or in any manner intervening in any cause of appeal, and the costs on either side, or of any party, in the court below, and the costs of opposing any matter which shall be referred to the said judicial committee, and the costs of all such issues as shall be tried by direction of the said judicial committee respecting any such appeal or matter, shall be paid by such party or parties, person or persons, as the said judicial committee shall order,

and such costs shall be taxed as in and by the said Act for the better administration of justice in the privy council is directed respecting the costs of prosecuting any appeal or matter referred by her Majesty under the authority of the said Act, save the costs arising out of any ecclesiastical ³[or maritime] cause of appeal, which shall be taxed by the registrar herein-after named, or his assistant registrar

13. [*Rep as to U K 42 & 43 Vict, c 59 Omitted as being inapplicable to India*]

Custody of records, etc, of the Court of Delegates and Appeals.

14. * * * ² all records, muniments, books, papers, wills, and other documents remaining in the registry of the High Court of Admiralty and Appeals, appertaining to the late High Court of Delegates and Appeals for Prizes, shall be and remain in the custody and possession of the said registrar of her Majesty in ecclesiastical and maritime causes

Judicial committee empowered to make rules, etc, respecting practice and mode of proceeding in appeals, etc

15. * * * ² it shall be lawful for the said judicial committee from time to time to make such rules, orders, and regulations respecting the practice and mode of proceeding in all appeals from ecclesiastical ³[and admiralty and vice admiralty] courts, and the conduct and duties of the officers and practitioners therein, and to appoint such officer or officers as may be necessary for the execution of processes under the said seal of her Majesty, and in respect to all appeals and other matters referred to them as to them shall seem fit, and from time to time to repeal or alter such rules, orders, or regulations

Rules to be approved by her Majesty in council.

Provided always, that no such rules, orders, or regulations shall be of any force or effect until the same shall have been approved by her Majesty in council

¹ Words repealed (U K) by 37 & 38 Vict, c 96 (S L R), have been omitted

² Words repealed (U K) by 54 & 55 Vict, c 67 (S L R), have been omitted

³ See footnote 3, p 229, ante

16. [*Rep as to U K 37 & 38 Vict, c 96 (S L R)* Omitted as being spent]

17. * * * *¹ in this Act all words denoting a male person shall be taken to include a female also, and all words denoting one person or thing shall be taken to include also several persons or things, unless a contrary sense shall clearly appear from the context,

Definition of terms

and ²* * the words "Arches Court of Canterbury," used in this Act, shall be construed to extend to such court as shall exercise the jurisdiction of the said court or be substituted for the same,

and ²* * wherever the words "ecclesiastical court" have been used in this Act the same shall be construed to extend to such court as shall exercise the jurisdiction or any part of the jurisdiction exercised by any ecclesiastical court or be substituted for the same,

and ²* * the words "ecclesiastical and maritime cause of appeal" shall be construed to extend to causes appealed from ecclesiastical courts, and such court as shall exercise the jurisdiction or any part of the jurisdiction exercised by any ecclesiastical court or be substituted for the same

THE SLAVE TRADE ACT, 1843

(6 & 7 Vict, c 98)

An Act for the more effectual suppression of the Slave Trade

[24th August, 1843]

[*Recital of 5 Geo 4, c 113, s 2 Rep 54 & 55 Vict, c 67 (S L R)*]³* * whereas it is expedient that from and after the commencement of this Act the provisions of the said Act herein-before recited shall be deemed to apply to, and extend to render unlawful, and to prohibit, the several acts, matters, and things therein mentioned when committed by British subjects in foreign countries and settlements not belonging to the British crown, in like manner and to all intents and purposes as if the same were done or committed by such persons within the British dominions, colonies, or settlements;

and it is expedient that further provisions should be made for the more effectual suppression of the slave trade, and of certain practices tending to promote and encourage it.

1 ⁴* * * * All the provisions of the said Consoli-⁵ 5 Geo 4, dated Slave Trade Act herein-before recited and of this present Act c 113, and shall, from and after the coming into operation of this Act, be deemed apply to all British subjects wheresoever residing or being, ~~wheresoever residing~~.

¹ Words repealed (U K) by 54 & 55 Vict, c 67 (S L R), have been

² The word "that" was repealed (U K) by 54 & 55 Vict, c 67 (S

³ The word "and" was repealed by 54 & 55 Vict, c 67 (S L R)

⁴ Introductory words repealed, 54 & 55 Vict, c. (S L R)

and whether within the dominions of the British crown or of any foreign country,

and all the several matters and things prohibited by the said Consolidated Slave Trade Act or by this present Act, when committed by British subjects, whether within the dominions of the British crown or in any foreign country, * * * *¹ shall be deemed and taken to be offences committed against the said several Acts respectively, and shall be dealt with and punished accordingly

Provided nevertheless, that nothing herein contained shall repeal or alter any of the provisions of the said Act

2 [Rep 54 & 55 Vict, c 67 (S L R)]

3. [Rep 36 & 37 Vict, c 88, s 30]

Evidence
may be taken
abroad, and
transmitted
to the Court
of Queen's
Bench, on
indictments,
etc, for
offences
under
recited Acts
and this Act

4. [Recital as to insufficiency of Acts for abolition of slave trade out of the United Kingdom Rep 54 & 55 Vict, c 67 (S L R)] In all cases of indictment or information laid or exhibited in the Court of Queen's Bench for misdemeanors or offences committed against the said Acts or against this present Act in any places out of the United Kingdom, and within any British colony, settlement, plantation, or territory, it shall and may be lawful for her Majesty's said court, upon motion to be made on behalf of the prosecutor or defendant, to award a writ or writs of mandamus, requiring the chief justice or other chief judicial officer in such colony, settlement, plantation, or territory, who are hereby respectively authorized and required accordingly, to hold a court, with all convenient speed, for the examination of witnesses and receiving other proofs concerning the matters charged in such indictments or informations respectively, and in the meantime to cause public notice to be given of the holding of such courts, and summonses to be issued for the attendances of witnesses and of agents and counsel of the parties,

and such examination as aforesaid shall be then and there openly and publicly taken in the said court *vivâ voce*, upon the respective oaths of the persons examined, and be reduced to writing, and be sent to her Majesty in her Court of Queen's Bench (in manner set forth and pre- 13 Geo 3
c 63

and such depositions, being duly taken and returned according to the true intent and meaning of this Act, shall be allowed and read, and shall be deemed as good and competent evidence as if such witnesses had been present and sworn and examined *vivâ voce* at any trial for such misdemeanors and offences as aforesaid in her Majesty's said Court of Queen's Bench, any law or usage to the contrary thereof notwithstanding

5 & 6 [Rep 54 & 55 Vict, c 67 (S L R)]

7. [Rep as to U K 37 & 38 Vict, c 96 (S L R) , Omitted as being spent]

¹ The words " except only as is hereinafter excepted " were repealed (U K) by 56 & 67 Vict, c. 54 (S L. R.)

THE INTERNATIONAL COPYRIGHT ACT, 1844 ¹

(7 & 8 Vict., c. 12.)

An Act to amend the Law relating to International Copyright

[10th May, 1844]

[Preamble recites 5 & 6 Vict, c 45 (hereinafter designated as "the Copyright Amendment Act"), 3 & 4 Will 4, c 15 (hereinafter designated as "the Dramatic Literary Property Act"), 8 Geo 2, c 13, 7 Geo 3, c 38, 17 Geo 3, c 57, 6 & 7 Will 4, c 59 (hereinafter designated as "the Engraving Copyright Act"), 37 Geo 3, c 71, 51 Geo 3, c 56 (hereinafter designated as "the Sculpture Copyright Act") *Rep (U K) 54 & 55 Vict, c 67 (S L R)*]

1. [*Rep as to U K 37 & 38 Vict, c 96 (S L R)* Omitted as being spent]

2 * * * * * it shall be lawful for her Majesty, by Her Majesty, any order of her Majesty in council, to direct that, as respects all or any by order in council, may direct that particular class or classes of the following works, (namely,) books, prints, authors, etc, articles of sculpture, and other works of art, to be defined in such order, of works first published in which shall after a future time, to be specified in such order, be first published in foreign countries shall published in any foreign country to be named in such order, the authors, have copy-right therein inventors, designers, engravers, and makers thereof respectively, their within her Majesty's respective executors, administrators, and assigns, shall have the privilege dominions of copyright therein during such period or respective periods as shall be defined in such order, not exceeding, however, as to any of the above-mentioned works, the term of copyright which authors, inventors, designers, engravers, and makers of the like works respectively first published in the United Kingdom may be then entitled to under the hereinafter recited Acts respectively or under any Acts which may hereafter be passed in that behalf first published in the United Kingdom would be entitled to copyright

3 * * * * * in case any such order shall apply to If the order applies to books, the copyright law as to books first published in this country, shall, from and to the copyright in books first published in this country, shall apply to the books to which the order relates, after the time so to be specified in that behalf in such order, and subject to such limitation as to the duration of the copyright as shall be therein contained, apply to and be in force in respect of the books to which such order shall extend, and which shall have been registered as herein-after is provided, in such and the same manner as if such books were first

¹ This Act is repealed by the Copyright Act, 1911 (1 & 2 come into operation in British India on the date on which see s 37 (2) (d) of the Act, *post*
² Enacting words repealed (U K), 54 & 55 Vict, c. 67

with certain
exceptions

published in the United Kingdom, save and except such of the said enactments, or such parts thereof, as shall be excepted in such order, and save and except such of the said enactments as relate to the delivery of copies of books at the British Museum, and to or for the use of the other libraries mentioned in the said Copyright Amendment Act

If the order
applies to
prints, sculp-
tures, etc.,
the copyright
law as to
prints or
sculptures
first pub-
lished in this
country
shall apply
to the prints,
sculptures,
etc., to which
such order
relates, if
registered.

4 * * * *¹ in case any such order shall apply to,

prints, articles of sculpture, or to any such other works of art as afore-
said, all and singular the enactments of the said Engraving Copyright
Acts and the said Sculpture Copyright Acts, or of any other Act for the
time being in force with relation to the copyright in prints or articles of
sculpture first published in this country and of any Act for the time
being in force with relation to the copyright in any similar works of
art first published in this country, shall, from and after the time so to
be specified in that behalf in such order, and subject to such limitation
as to the duration of the copyright as shall be therein contained, re-
spectively apply to and be in force in respect of the prints, articles of
sculpture and other works of art to which such order shall extend, and
which shall have been registered as herein-after is provided in such and
the same manner as if such articles and other works of art were first
published in the United Kingdom, save and except such of the said
enactments or such parts thereof as shall be excepted in such order

5 * * * *¹ it shall be lawful for her Majesty, by

Her Majesty
may, by
order in
council,
direct that
authors and
composers
of dramatic
pieces and
musical com-
positions first
publicly
represented
and perform-
ed in foreign
countries
shall have
exclusive
rights of
representa-
tion in the
British
dominions.
Enactments
relating to
similar pieces
first publicly
represented
in this
country shall
apply to such
pieces, if
registered.

any order of her Majesty in council, to direct that the authors of drama-
tic pieces and musical compositions which shall after a future time, to
be specified in such order, be first publicly represented or performed in
any foreign country to be named in such order, shall have the sole
liberty of representing or performing in any part of the British domin-
ions such dramatic pieces or musical compositions during such period as
shall be defined in such order, not exceeding the period during which
authors of dramatic pieces and musical compositions first publicly re-
presented or performed in the United Kingdom may for the time be-
entitled by law to the sole liberty of representing and performing the
same;

and from and after the time so specified in any such last-mentioned
order the enactments of the said Dramatic Literary Property Act and of
the said Copyright Amendment Act and of any other Act for the time
being in force with relation to the liberty of publicly representing and
performing dramatic pieces or musical compositions, shall, subject to
such limitation as to the duration of the right conferred by any such
order as shall be therein contained, apply to and be in force in respect
of the dramatic pieces and musical compositions to which such order
shall extend and which shall have been registered as herein-after is
provided in such and the same manner as if such dramatic pieces and
musical compositions had been first publicly represented and performed

¹ Enacting words repealed (U K), 54 & 55 Vict , c 67 (S L R)

in the British dominions, save and except such of the said enactments or such parts thereof as shall be excepted in such order

6 Provided always * * * *¹ that no author of any book, dramatic piece or musical composition, or his executors, administrators or assigns, and no inventor, designer, or engraver of any print, or maker of any article of sculpture or other work of art, his executors, administrators, or assigns, shall be entitled to the benefit of this Act, or of any order in council to be issued in pursuance thereof, unless, within a time or times to be in that behalf prescribed in each such order in council, such book, dramatic piece, musical composition, print, article of sculpture, or other work of art, shall have been so registered and such copy thereof shall have been so delivered as herein-after is mentioned (that is to say,)

Particulars to be observed as to registry and to delivery of copies,

as regards such book, and also such dramatic piece or musical composition (in the event of the same having been printed), the title to the copy thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor of the copyright thereof, the time and place of the first publication, representation, or performance thereof, as the case may be, in the foreign country named in the order in council under which the benefits of this Act shall be claimed, shall be entered in the register book of the Company of Stationers in London, and one printed copy of the whole of such book, and of such dramatic piece or musical composition, in the event of the same having been printed, and of every volume thereof, upon the best paper upon which the largest number or impression of the book, dramatic piece, or musical composition shall have been printed for sale, together with all maps and prints relating thereto, shall be delivered to the officer of the Company of Stationers at the hall of the said company,

as to books and printed dramatic pieces or musical compositions,

and as regards dramatic pieces and musical compositions in manuscript, the title to the same, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor of the right of representing or performing the same, and the time and place of the first representation or performance thereof in the country named in the order in council under which the benefit of the Act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London,

as to dramatic pieces and musical compositions in manuscript,

and as regards prints, the title thereof, the name and place of abode of the inventor, designer, or engraver thereof, the name of the proprietor of the copyright therein, and the time and place of the first publication thereof in the foreign country named in the order in council under which the benefits of the Act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London, and a copy of such print, upon the best paper upon which the largest number or

as to prints,

¹ Enacting words repealed (U' K.), 54 & 55 Vict , c 67 (S L R)

impressions of the print shall have been printed for sale, shall be delivered to the officer of the Company of Stationers at the hall of the said company,

as to sculptures, etc.

and as regards any such article of sculpture, or any such other work of art as aforesaid, a descriptive title thereof, the name and place of abode of the maker thereof, the name of the proprietor of the copyright therein, and the time and place of its first publication in the foreign country named in the order in council under which the benefits of this Act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London,

and the officer of the said Company of Stationers receiving such copies so to be delivered as aforesaid shall give a receipt in writing for the same, and such delivery shall to all intents and purposes be a sufficient delivery under the provisions of this Act

In case of books published anonymously, it shall be sufficient to register the name, etc., of the publisher

7. Provided always * * * *^{*1} that if a book be published anonymously it shall be sufficient to insert in the entry thereof in such register book the name and place of abode of the first publisher thereof, instead of the name and place of abode of the author thereof, together with a declaration that such entry is made either on behalf of the author or on behalf of such first publisher, as the case may require

The provisions of the Copyright Amendment Act, 5 & 6 Vict., c. 45, as regards entries in the register book of the Company of Stationers, searches, etc., to apply to books, etc., registered under this Act.

8. * * * *^{*1} the several enactments in the said Copyright Amendment Act contained with relation to keeping the said register book, and the inspection thereof, the searches therein, and the delivery of certified and stamped copies thereof, the reception of such copies in evidence, the making of false entries in the said book, and the production in evidence of papers falsely purporting to be copies of entries in the said book, the applications to the courts and judges by persons aggrieved by entries in the said book, and the expunging and varying such entries, shall apply to the books, dramatic pieces, and musical compositions, prints, articles of sculpture, and other works of art, to which any order in council issued in pursuance of this Act shall extend, and to the entries and assignments, of copyright and proprietorship therein, in such and the same manner as if such enactments were here expressly enacted in relation thereto, save and except that the forms of entry prescribed by the said Copyright Amendment Act may be varied to meet the circumstances of the case, and that the sum to be demanded by the officer of the said Company of Stationers for making any entry required by this Act shall be one shilling only

As to expunging or varying entry grounded on wrongful first publication

9. * * * *^{*1} every entry made in pursuance of this Act of a first publication shall be *prima facie* proof of a rightful first publication,

but if there be a wrongful first publication, and any party have availed himself thereof to obtain an entry of a spurious work, no order

for expunging or varying such entry shall be made unless it be proved to the satisfaction of the court or of the judge taking cognizance of the application for expunging or varying such entry,

first, with respect to a wrongful publication in a country to which the author or first publisher does not belong, and in regard to which there does not subsist with this country any treaty of international copyright, that the party making the application was the author or first publisher, as the case requires,

second, with respect to a wrongful first publication either in the country where a rightful first publication has taken place, or in regard to which there subsists with this country a treaty of international copyright, that a court of competent jurisdiction in any such country where such wrongful first publication has taken place has given judgment in favour of the right of the party claiming to be the author or first publisher.

deposit books,
etc., delivered
in the British
Museum

volume, or print so to be delivered as aforesaid, and within one calendar month after receiving such book, volume, or print shall deposit the same in the library of the British Museum.

As to deposit
ing copies of
second or
subsequent
editions

12. Provided always * * * *¹ that it shall not be requisite to deliver to the said officer of the said Stationers Company any printed copy of the second or of any subsequent edition of any book or books so delivered as aforesaid, unless the same shall contain additions or alterations

Different
periods may
be specified
for continu-
ances of pri-
vilege for
different
foreign coun-
tries and
classes of
works, and
times for on-
tries, etc., may
be different

13 * * * *¹ the respective terms to be specified by such orders in council respectively for the continuance of the privilege to be granted in respect of works to be first published in foreign countries may be different for works first published in different foreign countries and for different classes of such works,

and ²* * the times to be prescribed for the entries to be made in the register book of the Stationers Company, and for the deliveries of the books and other articles to the said officer of the Stationers Company, as hereinbefore is mentioned, may be different for different foreign countries and for different classes of books or other articles

14 [*Rep 49 & 50 Vict, c 33, s 12*]

Orders to be
published in
Gazette, and
to have effect
as if included
in this Act

15. * * * *¹ every order in council to be made under the authority of this Act shall as soon as may be after the making thereof by her Majesty in council be published in the London Gazette, and from the time of such publication shall have the same effect as if every part thereof were included in this Act

Orders to be
laid before
Parliament

16 * * * *¹ a copy of every order of her Majesty in council made under this Act shall be laid before both Houses of Parliament within six weeks after issuing the same, if Parliament be then sitting, and if not, then within six weeks after the commencement of the then next session of Parliament

17 & 18 [*Rep 49 & 50 Vict, c 33, s 12*]

Authors,
etc., of
works first
published
in foreign
countries not
entitled to
copyright
except under
this Act

19 * * * *¹ neither the author of any book, nor the author or composer of any dramatic piece or musical composition, nor the inventor, designer, or engraver of any print, nor the maker of any article of sculpture, or of such other work of art as aforesaid, which shall after the passing of this Act be first published out of her Majesty's dominions, shall have any copyright therein respectively, or any exclusive right to the public representation or performance thereof, otherwise than such (if any) as he may become entitled to under this Act

Interpreta-
tion-clause

20 * * * *¹ in the construction of this Act the word "book" shall be construed to include "volume," "pamphlet," "sheet of letter-press," "sheet of music," "map,"² "chart," or "plan",

¹ Enacting words repealed (U. K.) 54 & 55 Vict., c. 67 (S. L. R.)

² The word "that" was repealed (U. K.) by *ibid.*

and the expression "articles of sculpture" shall mean all such sculptures, models, copies, and casts as are described in the said Sculpture Copyright Acts and in respect of which the privileges of copyright are thereby conferred,

and the words "printing" and "re-printing" shall include engraving and any other method of multiplying copies,

and the expression "her Majesty" shall include the heirs and successors of her Majesty, [*Rep (U K) 54 & 55 Vict , c 67 (S L R)*]

and the expressions "order of her Majesty in council," "order in council," and "order" shall respectively mean order of her Majesty acting by and with the advice of her Majesty's most honourable privy council,

and the expression "officer of the Company of Stationers" shall mean the officer appointed by the said Company of Stationers for the purposes of the said Copyright Amendment Act,

and in describing any persons or things any word importing the plural number shall mean also one person or thing, and any word importing the singular number shall include several persons or things, and any word importing the masculine shall include also the feminine gender, unless in any of such cases there shall be something in the subject or context repugnant to such construction

21 [*Rep as to U K 37 & 38 Vict , c 96 (S L R)* Omitted as being spent]

THE JUDICIAL COMMITTEE ACT, 1844

(7 & 8 Vict , c 69)

An Act for amending an Act passed in the Fourth Year of the Reign of His late Majesty, intituled "An Act for the better Administration of Justice in His Majesty's Privy Council", and to extend its Jurisdiction and Powers

[6th August, 1844]

[*Preamble recites 3 & 4 Will 4, c 41, 5 & 6 Will 4, c 83 Rep (U K) 54 & 55 Vict , c 67 (S L R)*]

1 * * * * 1 It shall be competent to her Majesty, Her Majesty, by any order or orders to be from time to time for that purpose made by order in council, may with the advice of her privy council, to provide for the admission of any provide for the admission of appeals to her Majesty in council from any judgments, sentences, decrees, or orders of any court of justice within any British colony or possession abroad, although such court shall not be a court of court in any errors or a court of appeal within such colony or possession, colony,

¹ Introductory words repealed (U K), 54 & 55 Vict , c, 67 (S L R)

although such court shall not be a court of appeal

and it shall also be competent to her Majesty, by any such order or orders as aforesaid, to make all such provisions as to her Majesty in council shall seem meet for the instituting and prosecuting any such appeals, and for carrying into effect any such decisions or sentences as her Majesty in council shall pronounce thereon

Provided always, that it shall be competent to her Majesty in council to revoke, alter, and amend any such order or orders as aforesaid, as to her Majesty in council shall seem meet

Orders may be either general or special.

Provided also, that any such order as aforesaid may be either general and extending to all appeals to be brought from any such court of justice as aforesaid, or special and extending only to any appeal to be brought in any particular case

General orders to be published.

Provided also, that every such general order in council as aforesaid shall be published in the London Gazette within one calendar month next after the making thereof

Nothing herein to affect the present powers for regulating appeals from the colonies

Provided also, that nothing herein contained shall be construed to extend to take away or diminish any power now by law vested in her Majesty for regulating appeals to her Majesty in council from the judgments, sentences, decrees, or orders of any courts of justice within any of her Majesty's colonies or possessions abroad

2 to 5 [*Rep 46 & 47 Vict, c 57, s 113*]

6 & 7 [*Rep as to U K 37 & 38 Vict, c 96 (S L R)*]

Judicial committee may appoint clerk of privy council to take proofs in matters referred to them

8 Provided always * * * *¹ that in the case of any matter or thing being referred to the judicial committee it shall be lawful for the said committee to appoint one or other of the clerks of the privy council to take any formal proofs required to be taken in dealing with the matter or thing so referred, and shall, if they so think fit, proceed upon such clerk's report to them as if such formal proofs had been taken by and before the said judicial committee

Judicial committee may hear appeals addressed to her Majesty in council without special order of reference, if a general order of reference of such appeals to the committee for the next twelve months shall have been issued in November

9 * * * *¹ in case any petition of a whatever shall be presented, addressed to her Majesty in council and petition shall be duly lodged with the clerk of the privy council, it shall be lawful for the said judicial committee to proceed in hearing and reporting upon such appeal, without any special order in council relating the same to them, ²provided that her Majesty in council shall have, by an order in council in the month of November, directed that all appeals shall be referred to the said judicial committee on which petitions may be presented to her Majesty in council during the twelve months next after the making of such order,

and ³* * the said judicial committee shall proceed to hear and report upon all such appeals in like manner as if each such appeal had been referred to the said judicial committee by a special order of her Majesty in council

¹ Enacting words repealed (U K), 54 & 55 Vict, c 67 (S L R)

² See 8 Edw 7, c. 51, s 5

³ The word "that" was repealed (U K) by 54 & 55 Vict, c 67 (S L R),

Provided always, that it shall be lawful for her Majesty in council at any time to rescind any general order so made,

and in case of such order being so rescinded all petitions of appeal shall in the first instance be preferred to her Majesty in council, and shall not be proceeded with by the said judicial committee without a special order of reference

General order may be revoked. Special order then required

10. * * * *¹ it shall be lawful for the said judicial committee to make an order or orders on any court in any colony or foreign settlement, or foreign dominion of the crown, requiring the judge or judges of such court to transmit to the clerk of the privy council a copy of the notes of evidence in any cause tried before such court, and of the reasons given by the judge or judges for the judgment pronounced in any case brought by appeal or by writ of error before the said judicial committee

Judicial committee may on appeal require copies of notes of evidence taken, and reasons for judgments given, in the courts of any colony, etc

11 * * * *¹ it shall and may be lawful for the said judicial committee to make any general rule or regulation, to be binding upon all courts in the colonies and other foreign settlements of the crown, requiring the judges' notes of the evidence taken before such court on any cause appealed, and of the reasons given by the judges of such court, or by any of them, for or against the judgment pronounced by such court, which notes of evidence and reasons shall by such court be transmitted to the clerk of the privy council within one calendar month next after the leave given by such court to prosecute any appeal to her Majesty in council,

Judicial committee may make rules, to be binding upon such courts, requiring judges' notes of evidence, reasons for judgments, etc

and such order of the said committee shall be binding upon all judges of such courts in the colonies or foreign settlements of the crown

12 [Rep 53 & 54 Vict, c 27, s 18 Omitted as being inapplicable to India]

13 [Rep as to U K 37 & 38 Vict, c 96 (S L R)]

THE NAVAL DESERTERS ACT, 1847

(10 & 11 Vict, c 62)

An Act for the Establishment of Naval Prisons, and for the Prevention of Desertion from Her Majesty's Navy

[2nd July, 1847]

[Preamble recites that it is expedient that the Admiralty should have power to establish and regulate naval prisons Rep (U K) 54 & 55 Vict, c 67 (S L R)]

1 to 8. [Rep 23 & 24 Vict, c 123, s 86]

¹ Enacting words repealed (U K), 54 & 55 Vict, c, 67 (S L R)

Apprehension, etc., of persons suspected to belong to the navy, and to be deserters, or improperly absent from duty

9. * * * *^{*1} it shall be lawful for the constable of any place where any person reasonably suspected to belong to her Majesty's navy, and to be a deserter or improperly absent from his duty, shall be found, or of any adjoining place, and if no such constable can be immediately met with to secure him, then for any person in her Majesty's service, to apprehend or cause such suspected person to be apprehended, and cause him to be brought before any justice in the United Kingdom, or in any of her Majesty's dominions or territories, * * * *^{*2} in or near such place, who shall examine such suspected person,

and if by his confession, or the testimony of one or more witness or witnesses upon oath, or by the knowledge of such justice, it shall appear that any person brought before him is a person belonging to her Majesty's navy improperly absent from his duty, such justice shall forthwith cause him to be conveyed to the nearest or most convenient public prison, and shall transmit an account thereof to the Secretary of the Admiralty, or to any commander-in-chief or officer commanding any one of her Majesty's ships or vessels, with a description of such person and the name of the ship or vessel to which he shall or may be suspected to belong, or if any such offender shall be apprehended by any person in her Majesty's service, or shall be apprehended in the vicinity of any one of her Majesty's ships or vessels in commission, then such justice shall order him to be taken on board any such ship or vessel, instead of committing him to prison,

Reward to person apprehending any such deserter,
o

and in all cases the justice shall certify the name of the person by whom the offender was apprehended, and such last-mentioned person shall be entitled to a reward for such apprehension, according to the amount which is or may be established by the naval regulations or instructions for the time being in that behalf, or in case the apprehension shall be under circumstances for which no reward is or may be established, the amount of such reward shall be any sum in the discretion of the Lord High Admiral, or the said Commissioners, or of the officer commanding the vessel to which the deserter or person who shall have been improperly absent shall belong, not exceeding three pounds, and the reward shall in every case be paid and charged against the wages or pay of any such offender, and stopped out of the same,

Fees to clerk of justice,

and for every such information, commitment, or order and account as aforesaid the clerk of the said justice may be entitled to a fee of two shillings and no more, and every gaoler and other person into whose custody any such offender is committed shall immediately upon the receipt of him pay such fee of two shillings, and also, upon the production of a receipt from the medical practitioner who may have been required to examine such suspected person, a fee of two shillings and

medical practitioner examining deserter, etc.,

¹ Enacting words repealed (U K), 54 & 55 Vict , c 67 (S L R)

² Words relating to East India Company were repealed (U K) by 38 & 39 Vict , c, 66 (S L R)

sixpence, and such sums shall be repaid to such gaoler or other person and gaoler, etc., to whose charge he is committed and the same, together with sixpence for every day the offender shall be in his custody, which shall be paid to such gaoler or other person, shall be charged against the pay or wages of the offender,

and every gaoler or other person having the custody of any such offender shall deliver him up to any person authorized to take charge of him by the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral, or by any naval commander-in-chief, or the officer commanding any one of her Majesty's ships or vessels, and any person so authorized shall convey him in safe custody on board any one of her Majesty's ships or vessels in commission

10. * * * *^{*1} any person who shall voluntarily deliver himself up as and confess himself to be a deserter from any one of her Majesty's ships or vessels, or improperly absent from such ship or vessel, or who while serving in any of her Majesty's forces, or the embodied militia, * * * *^{*2} shall to any officer or non-commissioned officer thereof confess himself to be a deserter as aforesaid, or improperly absent as aforesaid, or who, upon being apprehended for any offence, shall in the presence of the justice confess himself to be a deserter, or improperly absent from his ship or vessel as aforesaid, and his statement shall not be true, he shall, if received into her Majesty's naval service, be deemed in her Majesty's navy, and be liable to serve and be detained therein as if he had voluntarily entered, or in case such person shall not be received into her Majesty's navy, he shall, on conviction thereof before two justices of the peace, at or near the place where he shall deliver himself up or confess, or where he may at any time happen to be adjudged to be punished, if in England, as a rogue and a vagabond, and if in Scotland or Ireland, by commitment to some prison or house of correction, there to be kept to hard labour for any time not exceeding three months

11 [*Rep 29 & 30 Vict, c 109, s 85*]

12 * * * *^{*1} every governor, gaoler, and keeper of any prison, gaol, or house of correction, and every officer having the charge or command of any place, ship, or vessel for imprisonment, who shall refuse or neglect to receive or confine, remove, discharge, or deliver up any prisoner or offender as herein prescribed, shall forfeit for every such refusal or neglect the sum of one hundred pounds

13 * / * *^{*1} all penalties and forfeitures imposed by this Act shall and may be recovered, with costs, either by information or complaint, by summary proceedings before any justice or justices of the peace residing in or near to the place where the offence shall be committed or where the offender shall at any time happen to be, and whether

¹ Enacting words repealed (U K), 54 & 55 Vict c 67 (S L R)

² Words relating to the East India Company repealed (U K), 38 & 39 Vict , c 66 (S L R)

the offence be committed in or out of her Majesty's dominions, or within the jurisdiction of the Admiralty of England, or not, and

Commitment
for non-
payment

if the sum imposed as a penalty by any such justice or justices shall not be paid either immediately after the conviction or within such reasonable time as such justice or justices shall at the time of the conviction appoint, it shall be lawful for the justice or justices to commit the offender or offenders to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such justice or justices, ^{1*} * * *

Application
of penalties

and all penalties and forfeitures recoverable under this Act shall be paid and applied in manner following, (that is to say,) one moiety of such penalty shall be paid to the informer or complainant, and the residue thereof shall be paid to the Commissioners of Greenwich Hospital, anything in the Municipal Corporations Act, 1882,² or in any ^{5² & 6 W.} other Act or Acts of Parliament, to the contrary notwithstanding. ^{c 76}

Power to
summon
and compel
attendance of
witnesses

14.³ * * * ⁴ any justice or justices of the peace may summon any witness to appear and give evidence before him or them upon any matter cognizable under this Act, at a time and place appointed for hearing the information or complaint, and by warrant under his hand and seal, or their hands and seals, may require any person to be brought before him or them who shall neglect or refuse to appear to give evidence at the time or place appointed in such summons, proof upon oath being first given of personal service of the summons upon the person against whom such warrant shall be granted,

Persons
using to
appear or give
evidence may
be com-
mitted.

and such justice or justices may commit any person coming or brought before him or them who shall refuse to give evidence to any common gaol or house of correction, there to remain without bail or mainprize for any time not exceeding six calendar months, or until such person shall sooner submit himself to be examined, and in case of such submission the order of any such justice or justices shall be sufficient warrant for the discharge of such person

15. [*Rep as to U. K 55 & 56 Vict., c. 19 (S L R)* Omitted as being inapplicable to India]

No certiorari,
etc

16. * * * ⁴ no conviction under this Act shall be quashed for want of form, or be removed by certiorari or otherwise into any of her Majesty's superior courts of record, and no warrant, commitment, or order for imprisonment shall be held void by reason of any defect therein, provided it be therein alleged that the person has

¹ The words "for any term not exceeding six calendar months, the commitment to be determinable upon payment of the amount and costs" were repealed (U K) by 55 & 56 Vict., c. 19 (S L R)

² Substituted for original reference to 5 & 6 Will 4, c. 76, by 45 & 46 Vict., c. 50, s. 2, 2

³ s. 14 except in so far as it relates to a proceeding under s. 9, was repealed as to the U K by 55 & 56 Vict., c. 19 (S L R)

⁴ Inacting words repealed (U K), 54 & 55 Vict., c. 47 (S L R)

been convicted or ordered to be imprisoned, and there be a good and valid conviction or an offence to sustain the same

17. [*Rep as to U. K 38 & 39 Vict, c 66 (S L R) Omitted as being spent*]

THE COLONIAL COPYRIGHT ACT, 1847 ¹

(10 & 11 Vict., c. 95.)

An Act to amend the Law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom

[22nd July, 1847]

[*Preamble recites 5 & 6 Vict, c 45, s 17, and 8 & 9 Vict, c 93, since repealed Rep (U K) 54 & 55 Vict, c 67 (S L R)]*

1 * * * *² in case the legislature or proper legislative authorities in any British possession shall be disposed to make due provision for securing or protecting the rights of British authors in such possession, and shall pass an Act or make an ordinance for that purpose, and shall transmit the same in the proper manner to the Secretary of State, in order that it may be submitted to her Majesty,

and in case her Majesty shall be of opinion that such Act or ordinance is sufficient for the purpose of securing to British authors reasonable protection within such possession,

it shall be lawful for her Majesty, if she think fit so to do, to express her royal approval of such Act or ordinance, and thereupon to issue an order in council declaring that, so long as the provisions of such Act or ordinance continue in force within such colony, the prohibitions contained in the aforesaid Acts, and herein-before recited, and any prohibitions contained in the said Acts, or in any other Acts, against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed, or published in the United Kingdom, and entitled to copyright therein, shall be suspended so far as regards such colony,

and thereupon such Act or ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such order in council, anything in the said last-recited Act or in any other Act to the contrary notwithstanding

2 * * * *² every such order in council shall, within one week after the issuing thereof, be published in the London

If any British possession passes an Act or ordinance securing the rights of British authors in such possession, and her Majesty approves of such Act or ordinance, she may, by order in council, suspend during the continuance of such Act, etc, the prohibitions of the recited Acts, etc, against importing, etc, into such possession foreign reprints of books first composed, etc, in the United Kingdom

Orders in council to be

¹ This Act is repealed by the Copyright Act, 1911 (1 & 2 Geo 5, c 46), which will come into operation in British India on the date on which it is proclaimed therein, see s 37 (2) (d) of the Act, *post*

² Introductory words repealed (U K), 54 & 55 Vict, c 67 (S L R)

published in
Gazette
Orders in
council and
the colonial
Acts or ordi-
nances to be
laid before
Parliament.

Gazette, and ^{1*} * a copy thereof, and of every such colonial Act or ordinance so approved as aforesaid by her Majesty, shall be laid before both Houses of Parliament within six weeks after the issuing of such order, if Parliament be then sitting, or if Parliament be not then sitting, then within six weeks after the opening of the next session of Parliament

3 [*Rep as to U K 38 & 39 Vict., c 66 (S L R). Omitted as being spent.*]

THE PORTUGUESE DESERTERS ACT, 1849

(12 & 13 Vict, c 25)

An Act for giving effect to the Stipulations of a Treaty between Her Majesty and the Queen of Portugal for the Apprehension of certain Deserters

[26th June, 1849]

[*Preamble recites Treaty of Commerce and Navigation with Portugal, dated 3rd July, 1842, Articles 16 and 19* ² *Rep (U. K) 54 & 55 Vict , c 67 (S L R)*]

Deserters
from Portu-
guese vessels
in ports in
her Majesty's
dominions or
territories
to be
delivered
on applica-
tion of
Portuguese
consul and
conveyed
back to the
vessel or
delivered to
the master,
etc.

1 * * * *³ In case any apprentice or sailor shall desert from any vessel belonging to any Portuguese subject or subjects, while such vessel shall be within any port in any of her Majesty's dominions, or the territories under the government of the East India Company, all justices of the peace and other magistrates and officers of justice within their several jurisdictions shall, on application being made by a Portuguese consul, or his deputy or representative, according to the provisions of the said treaty, aid in apprehending such apprentice or sailor,

and upon any such application it shall be lawful for any justice of the peace, or other magistrate or person having power to commit for trial persons accused of crimes against the laws of that part of her Majesty's dominions or territories in which such apprentice or sailor shall be found, to issue his warrant for the apprehension of such apprentice or sailor, and upon due proof of such desertion as aforesaid, to order such apprentice or sailor to be conveyed on board the said vessel, or to be delivered to the master, mate, or owner of such vessel, or his agent, for the purpose of being so conveyed,

and it shall be lawful for such master, mate, owner, or agent, or any other person in pursuance of the order in that behalf, to convey such apprentice or sailor accordingly

¹ The word "that" was repealed (U K) by 54 & 55 Vict , c. 67 (S L R)

² See Hertslet's Treaties, Vol. VI, p 598

³ Introductory and enacting words repealed (U K), 54 & 55 Vict , c 67 (S L R)

2 * * * *¹ no person shall protect or harbour any apprentice or sailor who shall have deserted as aforesaid, knowing or having reason to believe such apprentice or sailor to have so deserted, Penalty for protecting deserters

and every person so offending shall for every such apprentice or seaman so protected or harboured forfeit and pay the sum of ten pounds,
* * * * *

3 * * * *¹ if by any law or ordinance to be hereafter made by the local legislature of any British colony or possession abroad provision shall be made for carrying into complete effect within such colony or possession the objects of this present Act, by the substitution of some other enactment in lieu thereof, then it shall be competent to her Majesty, with the advice of her Privy Council, if to her Majesty in council it shall seem meet, but not otherwise, to suspend the operation within any such colony or possession of this present Act so long as such substituted enactment shall continue in force there, and no longer The operation of this Act in any colony may be suspended while any enactment of the colonial legislature carrying out the objects of this Act remains in force there

4 * * * *¹ this Act shall continue in force during the continuance of the said treaty Continuance of this Act

THE ADMIRALTY OFFENCES (COLONIAL) ACT, 1849

(12 & 13 Vict, c 96)

An Act to provide for the Prosecution and Trial in Her Majesty's Colonies of Offences committed within the Jurisdiction of the Admiralty

[1st August, 1849]

[*Preamble Rep 54 & 55 Vict, c 67 (S L R)*]

1 * * * *³ If any person within any colony shall be charged with the commission of any treason, piracy, felony, robbery, murder, conspiracy, or other offence of what nature or kind soever, committed upon the sea, or in any haven river creek, or place where the admiral or admirals have power authority, or jurisdiction, or if any person charged with the commission of any such offence upon the sea or in any such haven, river creek or place shall be brought for trial to any colony,

then and in every such case all magistrates, justices of the peace, public prosecutors, judges, courts, public officers, and

¹ Introductory and explanatory words repealed (U K), 54 & 55 Vict, c. 67 (S L R)

² Words repealed by 54 & 55 Vict, c. 67 which substitutes other provisions have been omitted

³ Introductory words repealed 54 & 55 Vict, c 67 (S L R)

persons in such colony shall have and exercise the same jurisdiction and authorities for inquiring of, trying, hearing, determining, and adjudging such offences, and they are hereby respectively authorized, empowered, and required to institute and carry on all such proceedings for the bringing of such person so charged as aforesaid to trial, and for and auxiliary to and consequent upon the trial of any such person for any such offence, wherewith he may be charged as aforesaid as by the law of such colony would and ought to have been had and exercised or instituted and carried on by them respectively if such offence had been committed and such person had been charged with having committed the same, upon any waters situate within the limits of any such colony, and within the limits of the local jurisdiction of the courts of criminal justice of such colony.

2. [*Rep 54 & 55 Vict, c 67 (S L R)*]

Provision,
etc, where
death in the
colony, or at
sea, etc,
follows from
injuries
inflicted on
the sea, etc

3. * * * *¹ where any person shall die in any colony of any stroke, poisoning, or hurt, such person having been feloniously stricken, poisoned, or hurt upon the sea or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, or at any place out of such colony, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished, in such colony, in the same manner and in all respects as if such offence had been wholly committed in that colony,

and if any person in any colony shall be charged with any such offence as aforesaid in respect of the death of any person who, having been feloniously stricken, poisoned, or otherwise hurt, shall have died of such stroke, poisoning, or hurt, upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, such offence shall be held for the purpose of this Act to have been wholly committed upon the sea

4. [*Omitted as being inapplicable to India*]

Interpreta
tion of
"colony"

5. * * * *¹ for the purposes of this Act the word "colony" shall mean any island, plantation, colony, dominion, fort, or factory of her Majesty, except any island within the United Kingdom, and the islands of Man, Guernsey, Jersey, Alderney, and Sark, and the lands adjacent thereto respectively², * * * *³

6 [*Rep 41 & 42 Vict, c 79 (S L R)*]

¹ Introductory words repealed, 54 & 55 Vict, c 67 (S L R)

² And includes British India,—see 23 & 24 Vict c 88, s 1

³ Words repealed (U K) by 44 & 45 Vict, c 59 (S L R), have been omitted

THE PIRACY ACT, 1850

3

(13 & 14 Vict, c. 26.)

An Act to repeal an Act of the Sixth Year of King George the Fourth, for encouraging the Capture or Destruction of Private Ships and Vessels, and to make other Provisions in lieu thereof

[25th June, 1850]

[Preamble Rep (U K) 54 & 55 Vict, c 67 (S L R)]

1. [Rep as to U K 38 & 39 Vict, c 66 (S L R) Omitted as being spent]

2 * * * *¹ whenever any of her Majesty's ships or vessels of war, or hired armed vessels, * * * *² or their boats, or any of the officers and crews thereof, shall * * * *² attack or be engaged with any persons alleged to be pirates afloat or ashore, it shall be lawful for the High Court of Admiralty of England, and for all courts of vice admiralty in any dominions of her Majesty beyond the seas, * * * *² to take cognizance of and to determine whether the persons or any of them so attacked or engaged were pirates, and to adjudge what was the total number of pirates so engaged or attacked, specifying the number of pirates captured, and what were the vessels and boats engaged

Jurisdiction given to admiralty courts to inquire into cases of alleged piracy

3. * * * *¹ with a view to the assignment of fitting rewards for services performed by her Majesty's forces against pirates the registrars of the several vice admiralty courts shall, on the first day of January and first day of July in every year, transmit to the * * * *² Admiralty a list or return of all cases which shall have been adjudged in the said courts respectively under this Act during the six months preceding, together with the dates of the seizure, according to the schedule marked (A) to this Act annexed,

List or return of all cases decided in vice admiralty courts to be sent to the Admiralty

and * * * the judges or registrars of the said courts respectively shall, upon the first convenient opportunity after every such decision, transmit the whole of the original evidence, with a statement of the proceedings, to the * * * *³ Admiralty, for the purpose of the same being deposited in the High Court of Admiralty of England for reference when necessary,

¹ Enacting words repealed (U K), 54 & 55 Vict, c 67 (S L R)

² Words relating to the East India Company in the first and third places and the words "after the said first day of June" in the second place were repealed (U K) by 38 & 39 Vict, c 66 (S L R)

³ The words "said Lords Commissioners of the" were repealed (U K) by 54 & 55 Vict, c 67 (S L R)

⁴ The word "that" was repealed (U K) by 54 & 55 Vict, c 67 (S L R)

and ^{1*} * all agents of officers and men receiving any ²rewards herein-before referred to shall be subject to the same laws, rules, and regulations to which agents receiving bounty for the abolition of the slave trade are or may be subject

4. [*Rep 38 & 39 Vict, c 66 (S. L R)* Omitted as being inapplicable to India]

Condemnation of ships, etc, taken from pirates

5. * * * *² All ships, vessels, boats, goods, merchandize, specie, or other property taken possession of from pirates by any of her Majesty's ships or vessels of war, or hired armed vessels * * * *³ or their boats, or any of the officers and crews thereof, shall and may be proceeded against in any of the admiralty courts before mentioned, and be subject and liable to condemnation as droits and perquisites of her Majesty in her Office of Admiralty

Provided always, that if any part of the said property shall be duly proved to have belonged to and to have been taken from any of her Majesty's subjects, or from the subjects of any foreign power, then such property and every part thereof shall, by the decree of the said court, be adjudged to be restored, and shall be accordingly restored to the former owner or owners, proprietor or proprietors thereof respectively, he or they paying for or in lieu of salvage a sum of money equal to one eighth part of the true value, which money * * * *⁴ shall be paid to and divided and distributed amongst the officers and crews thereof, in such manner, form, and proportion as other bounties are now distributable by virtue of her Majesty's proclamation or order in council dated the thirtieth day of July one thousand eight hundred and forty-nine, or as her Majesty, * * * *⁵, shall from time to time by any further proclamation or order or orders in council think fit to declare and direct, * * * *⁴.

Perjury

6 * * * *² every person who shall wilfully and corruptly give false evidence in any examination or deposition had or affidavit taken in any proceeding under this Act shall be deemed guilty of perjury, and being thereof convicted shall be subject and liable to all the punishments, pains, and penalties to which persons convicted of wilful and corrupt perjury are liable,

Trial of such persons

and every such person may be tried for any such perjury either in the place where the offence was committed or in any colony or settlement of her Majesty near thereto in which there is a court of competent jurisdiction to try any such offence, or in her Majesty's Court of Queen's Bench in England,

¹ The word " that " was repealed (U K) by 54 & 55 Vict, c 67 (S L R)

² Enacting words repealed (U K), 54 & 55 Vict, c 67 (S L R)

³ Words relating to the East India Company were repealed (U K) by 38 & 39 Vict, c 66 (S L R)

⁴ Words repealed (U K) by 38 & 39 Vict, c 66 (S L R), have been omitted

⁵ The words " her heirs and successors " were repealed (U K) by 54 & 55 Vict, c 67 (S L R)

and in case of any prosecution for such offence in her Majesty's said Court of Queen's Bench the venue may be laid in the county of Middlesex

7. [*Rep 38 & 39 Vict , c 66 (S L R) Omitted as being spent*]

SCHEDULE (A) referred to by this Act

Date of attack or destruction	Property seized, if any	Names of attacking ships	Date of sentence	Decretal part of sentence	Whether any property has been condemned, and sold or converted, and whether any part remains unsold, and in whose hands the proceeds remain

THE LUNATICS' REMOVAL (INDIA) ACT, 1851

(14 & 15 Vict , c 81.)

An Act to authorize the removal from India of Insane Persons charged with Offences, and to give better Effect to Inquisitions of Lunacy taken in India

[*7th August, 1851*]

[*Preamble and enacting words Rep (U K) 55 & 56 Vict , c 19 (S L R)*]

1 *¹ if any person shall have been or shall hereafter be indicted for or charged with any crime or offence in any court in India, and shall have been or shall hereafter be acquitted of or not be tried for such crime or offence on the ground of his being found to be of unsound mind, and shall by reason of the premises be lawfully in custody in India, it shall be lawful for the person or persons administering the government of the presidency in which such person shall be so in custody to order such person to be removed from India to any part of the United Kingdom, there to abide the order of her Majesty concerning his or her safe custody, and to give such directions for carrying such order to be carried into effect as may be deemed fit and proper

Power to remove from India to any part of the United Kingdom, there to abide the order of her Majesty concerning his or her safe custody, and to give such directions for carrying such order to be carried into effect as may be deemed fit and proper

¹ The word "that" was repealed by 55 & 56 Vict , c. 19 (S. L. R)

Order of gov-
ernment of
any presi-
dency to be a
sufficient
warrant for
removal

2. *¹ the orders and directions of the said government of any of the said presidencies for the removal of any person under the provisions of this Act shall be a sufficient warrant and authority to all commanders of vessels and others, to whom the care and custody of any such person shall be committed, for the removal of such person from India to the United Kingdom in conformity with such directions, and for his detention in custody there until an order shall be made by her Majesty as hereinafter is mentioned,

Order for cus-
tody on
arrival
in United
Kingdom.

and upon the arrival of any such person in the United Kingdom it shall be lawful for her Majesty to give such order for the safe custody of such person during her pleasure in such place and in such manner as to her Majesty shall seem fit, in like manner as if such person had been indicted for an offence and found insane, and were thereby subject to the provisions of the Act passed in the thirty-ninth and fortieth year of his late Majesty King George the Third intituled "An Act for the safe custody of insane persons charged with offences"

39 and 40
Geo 3, c 9

Expences of
removal

3. *¹ all expences attending the removal from India and the safe custody and maintenance in Great Britain or Ireland of all such persons as aforesaid shall be borne and defrayed by the East India Company, who are hereby authorized to charge the amount of such expences upon the revenues of the government of India

Expences to
be a debt due
from the
lunatic to the
East India
Company

4. *¹ the amount of all expences incurred by the East India Company in respect of the removal and custody of any such person as aforesaid shall be a debt from such person to the East India Company,

and for securing the payment thereof the East India Company shall be entitled to enter up against such person as of the date of the order for removal from India any judgment in England or Ireland in an amount sufficient to secure the payment of all expences incurred and to be incurred in respect of the matters aforesaid, and the costs of ascertaining the same as after mentioned,

and on production at the office in Edinburgh for the registration of writs in the books of council and session of a copy of any order of the court of directors directing such judgment to be entered up, certified by the secretary of the said company, such order shall be registered in the said books in like manner as a bond executed according to the law of Scotland with a clause of registration, and decree shall be interponed thereon, which shall have the like effect as if such person had executed such bond, but without prejudice to the provisions herein contained for ascertaining the sum actually due,

and upon application to be from time to time made to the Lord Chancellor of Great Britain in England or Chancellor in Ireland, being intrusted with the care of persons of unsound mind, or the Court of Session

¹ The word "that" was repealed (U K) by 55 & 56 Vict, c 19 (S L R)

in Scotland, the amount of such expences reasonably and properly incurred shall be ascertained by a reference to one of the masters of the Court of Chancery, or by a remit to the accountant of the Court of Session, or otherwise, in such manner as the person or persons to whom such application shall be made shall direct,

and the East India Company shall be entitled from time to time to recover payment of the amount so ascertained, and the costs of ascertaining the same, by proceeding on the judgment in England or Ireland, and registered order and decree in Scotland, and enforcing the same against the property but not against the person of the debtor, in the same manner as if such judgment had at the date of the said order of removal been recovered against the debtor when of sound mind, and had been set off up at the date of such order, or as if such bond had been given by the debtor when of sound mind at the date of such order, and the same had been registered in the books of council and session. and a decree in the said

and in the case of any supersedeas of any such proceedings, the same shall be certified and transmitted and recorded in like manner,

and the record of any such proceedings or of any such supersedeas as aforesaid shall, in case and so long and so far as the Lord Chancellor of Great Britain or other persons intrusted as aforesaid, or the Court of Session in Scotland, or the Chancellor of Ireland intrusted as aforesaid, (as the case may require,) shall respectively see fit, be acted upon by him and them respectively, and be of the same force and validity, and have the same force and effect, as if such proceedings or supersedeas, or proceedings or a supersedeas to the like effect, had taken place in England, Scotland, or Ireland respectively,

and it shall be lawful for the Lord Chancellor or other persons intrusted as aforesaid, the Court of Session in Scotland, and the Chancellor of Ireland intrusted as aforesaid respectively, from time to time to make and give all such orders or directions by appointing any committee or committees, curator or curators, or otherwise, as may appear necessary or proper for securing proper care and protection to the person and estate of such idiot, lunatic, or person of unsound mind

owers of
Lord Chan-
cellor

7 *¹ the powers and authorities given by this Act to the Lord Chancellor of Great Britain or other persons intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Great Britain, or any other person or persons for the time being intrusted as aforesaid,

and the powers and authorities given by this Act to the Lord Chancellor of Ireland intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Ireland, or any other person or persons for the time being intrusted aforesaid as aforesaid

THE COURT OF CHANCERY ACT, 1851

(14 & 15 Vict, c 83.)

An Act to improve the Administration of Justice in the Court of Chancery and in the Judicial Committee of the Privy Council

* * * * *

No matter to
be heard, etc.,
by judicial
committee

16 ²*So much of the Act of the Session holden in the third and fourth years of King William the Fourth, chapter forty-one, as provides that no matter shall be heard, nor shall any order, report, or recommendation be*

¹ The word " that " was repealed (U K) by 55 & 56 Vict, c 19 (S L R)

² The portion in italics was repealed in the United Kingdom by 38 & 39 Vict, c, 66 (S L R) It is spent,

made by the Judicial Committee of the Privy Council, in pursuance of that Act, unless in the presence of at least four members of the said Committee shall be repealed, and no matter shall be heard, nor shall any order, report, or recommendation be made, by the ^{1*} * Judicial Committee, in pursuance of ^{1*} * * any ^{1*} * Act, unless in the presence of at least three members of the said Committee, exclusive of the Lord President of Her Majesty's Privy Council for the time being

unless three members are present, exclusive of Lord President

* * * * *

THE INTERNATIONAL COPYRIGHT ACT, 1852 ²

(15 & 16 Vict., c. 12)

An Act * * * * * to extend and explain the International Copyright Acts, and to explain the Acts relating to Copyright in Engravings

[28th May, 1852]

[Preamble reciting 7 & 8 Vict., c. 12, herein-after called "the International Copyright Act" and enacting word Rep (U K) 55 & 56 Vict., c. 19 (S L R)]

1 to 5 [Rep 49 & 50 Vict., c. 33, s. 12]

6 Nothing herein contained shall be so construed as to prevent fair imitations or adaptations to the English stage of any dramatic piece or musical composition published in any foreign country ²

Saving as to imitations of dramatic pieces, etc

7 Notwithstanding anything in the said International Copyright Act or in this Act contained, any article of political discussion which has been published in any newspaper or periodical in a foreign country may, if the source from which the same is taken be acknowledged, be republished or translated in any newspaper or periodical in this country,

Articles in foreign newspapers, etc., relating to politics may be republished or translated

and any article relating to any other subject which has been so published as aforesaid may, if the source from which the same is taken be acknowledged, be republished or translated in like manner unless the author has signified his intention of preserving the copyright therein, and the right of translating the same, in some conspicuous part of the newspaper or periodical in which the same was first published, in which case the same shall * * * ⁴ receive the same protection as is by virtue of the International Copyright Act or this Act extended to books

if the same be acknowledged, and also articles in newspapers, etc., relating to politics may be republished or translated

¹ The words "said," "the said Act or" and "other" were repealed (U K) 55 & 56 Vict., c. 19 (S L R)

² This Act is repealed by the Copyright Act, 1911 (1 & 2 Geo. 5, c. 46) which come into operation in British India from the date on which it is proclaimed there. See s. 37 (2) (d) of that Act, *post*

³ Words repealed (U K) by 55 & 56 Vict., c. 19 (S L R) have been omitted

⁴ Words repealed (U K) by 57 & 58 Vict., c. 55 (S L R), have been omitted

8 [Rep 49 & 50 Vict, c 33, s 12]

Pirated copies
prohibited
to be im-
ported,
except with
consent of
proprietor

9. All copies of any works of literature or art wherein there is any subsisting copyright by virtue of the International Copyright Act and this Act, or of any order in council made in pursuance of such Acts or either of them, and which are printed, reprinted, or made in any foreign country except that in which such work shall be first published, and all unauthorized translations of any book or dramatic piece, the publication or public representation in the British dominions of translations whereof, not authorized as in this Act mentioned, shall for the time being be prevented under any order in council made in pursuance of this Act, are hereby absolutely prohibited to be imported into any part of the British dominions, except by or with the consent of the registered proprietor of the copyright of such work or of such book or piece, or his agent authorized in writing,

Provisions of
5 & 6 Vict,
c 45, as to
forfeiture,
etc, of
pirated
works, etc,
to extend to
works pro-
hibited to be
imported
under this
Act

and the provision of the Act of the sixth year of her Majesty "to amend the law of copyright," for the forfeiture, seizure, and destruction of any printed book first published in the United Kingdom wherein there shall be copyright and reprinted in any country out of the British dominions, and imported into any part of the British dominions by any person not being the proprietor of the copyright, or a person authorized by such proprietor, shall extend and be applicable to all copies of any works of literature and art, and to all translations the importation whereof into any part of the British dominions is prohibited under this Act

Foregoing
provisions to
be incorpor-
ated with 7 &
8 Vict, c 12

10 The provisions herein-before contained shall be incorporated with the International Copyright Act, and shall be read and construed there-with as one Act

11 [Rep 49 & 50 Vict, c 33, s 12]

12 and 13 [Rep 38 & 39 Vict, c 66 (S L R)]

Lithographs,
etc

8 Geo 2,
c 13
7 Geo 3,
c 38
17 Geo 3,
c 57
6 & 7 Will
4, c 59

14 And whereas by the four several Acts of Parliament following, (that is to say,) the Engraving Copyright Act, 1734, the Engraving Copyright Act, 1766, the Prints Copyright Act, 1777, and the Prints and Engraving Copyright (Ireland) Act, 1836, provision is made for securing to every person who invents, or designs, engraves, etches, or works in mezzotinto or chiaro-oscuro, or, from his own work, design, or invention, causes or procures to be designed, engraved, etched, or worked in mezzotinto or chiaro-oscuro, any historical print or prints, or any print or prints of any portrait, conversation, landscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, and to every person who engraves, etches, or works in mezzotinto or chiaro-oscuro, or causes to be engraved, etched, or worked, any print taken from any picture, drawing, model, or sculpture, notwithstanding such print has not been graven or drawn from his own original design, certain copyrights therein defined.

and whereas doubts are entertained whether the provisions of the said Acts extend to lithographs and certain other impressions, and it is expedient to remove such doubts

It is hereby declared, that the provisions of the said Acts are intended to include prints taken by lithography, or any other mechanical process by which prints or impressions of drawings or designs are capable of being multiplied indefinitely, and the said Acts shall be construed accordingly

Provisions of recited Acts shall include lithographs, etc

THE COLONIAL BISHOPS ACT, 1852

(15 & 16 Vict., c. 52.)¹

An Act to enable Colonial and other Bishops to perform certain episcopal functions under Commission from Bishops of England and Ireland

[30th June, 1852.]

[*Preamble, reciting 53 Geo 3, c 155, and 3 & 4 Will 4, c 85, and enacting words Rep (U K) 55 & 56 Vict, c 19 (S L R)]*

1 Notwithstanding anything in the said Acts or in any letters patent as aforesaid contained, it shall be lawful for any bishop who by virtue of such royal letters patent under the Great Seal of the said United Kingdom shall exercise or have exercised in the British territories aforesaid the office of bishop of Calcutta, or Madras, or Bombay respectively, upon the request and by the commission in writing under the hand and seal of the bishop of any diocese in England or Ireland, and with the consent and licence in writing of the archbishop of the province within which such diocese shall be situated, to ordain any persons, provided such persons shall be presented to him under the direction and authority of the bishop of such diocese, and to perform all other functions peculiar and appropriate to the order of bishops within the limits of such diocese

East Indian bishops, under commission from bishops in England and Ireland, may ordain, etc, in the dioceses of such last-mentioned bishops

2 And whereas by an Act passed in the fifty-ninth year of the reign of King George the Third, intituled "An Act to permit the Archbishops of Canterbury and York and the Bishop of London for the time being to admit persons into holy orders specially for the colonies," it was enacted, "that from and after the passing of this Act no person who shall have been admitted into holy orders by the bishops of Quebec, Nova Scotia, or Calcutta, or by any other bishop or archbishop than those of England and Ireland, shall be capable of officiating in any church or chapel of England or Ireland, without special permission from the archbishop of the province in which he proposes to officiate, or of having, holding, or enjoying or of being admitted to any parsonage

¹ Extended by 16 & 17 Vict, c 49

“ or other ecclesiastical preferment in England or Ireland, or of acting
 “ as curate therein, without the consent and approbation of the arch-
 “ bishop of the province and also of the bishop of the diocese in which
 “ any such parsonage or ecclesiastical preferment or curacy may be
 “ situated ”

and it was provided, “ that no person who after the passing of this
 “ Act shall have been ordained a deacon or priest by a colonial bishop,
 “ who at the time of such ordination did not actually possess an episcopal
 “ jurisdiction over some diocese, district, or place, or was not actually
 “ residing within such diocese, district, or place, shall be capable, in any
 “ way or on any pretence whatever, of at any time holding any parson-
 “ age or other ecclesiastical preferment within his Majesty’s dominions,
 “ or of being a stipendiary curate or chaplain, or of officiating at any
 “ place or in any manner as a minister of the Established Church of
 “ England and Ireland ”

and whereas by an Act passed in the third and fourth years of the
 reign of the Queen’s most excellent Majesty, intituled “ An Act to make
 “ certain provisions and regulations in respect to the exercise, within
 “ England and Ireland, by the bishops and clergy of the Protestant Epis-
 “ copal Church in Scotland, and also to extend such provisions and
 “ regulations to the bishops and clergy of the Protestant Episcopal
 “ Church in the United States of America, and also to make further
 “ regulations in respect to bishops and clergy other than those of the
 “ United Church of England and Ireland,” it was enacted, “ that no
 “ person who has been or shall be ordained a deacon by any Protestant
 “ bishop, other than an archbishop or bishop of the United Church of
 “ England and Ireland, and who shall after the passing of this Act be
 “ ordained a priest by any archbishop or bishop of the United Church
 “ of England and Ireland, shall be thereby enabled, save as in this Act
 “ is provided, to exercise his office within England or Ireland ”

Admissions,
 institutions,
 etc., of per-
 sons ordained
 in an English
 or Irish
 diocese under
 commission
 from the
 bishop there-
 of by an
 East Indian
 or colonial
 bishop, to be
 valid, not
 withstanding
 recited Acts

Be it enacted, and it is hereby enacted, that nothing in the said re-
 cited Acts contained shall extend or be held to extend to any person who,
 in pursuance of such request and commission as aforesaid from the bishop
 of any diocese in England or Ireland, shall have been or may hereafter
 be ordained a deacon or priest within the limits of such diocese by any
 bishop who by virtue of her Majesty’s royal letters patent under the
 Great Seal of the United Kingdom of Great Britain and Ireland, shall
 exercise or have exercised the office of bishop within the British terri-
 tories in India, or in any of her Majesty’s colonies or foreign possessions,
 and that all admissions, institutions and inductions to benefices in the
 United Church of England and Ireland, and all appointments to act as
 curates and chaplains therein, of persons so admitted into holy orders by
 any such bishop, shall, notwithstanding anything in the said recited
 Acts contained, be to all intents and purposes good and valid in law.

3. Provided always, that all and every of such bishops, who, in accordance with the provisions of this Act, shall officiate in behalf of the bishop of any diocese in England or Ireland, in conferring holy orders, shall be subject to the several provisions and limitations established by the laws of this realm, or canons ecclesiastical, as to the titles of the persons to be ordained, and as to the oaths and subscriptions to be by such persons taken and made

Bishops so officiating shall be subject to the laws of the realm, etc, as to the titles, etc, of persons ordained by them
Letters of orders of persons so ordained shall be signed by the officiating bishop as commissary

4 Provided also, that all letters of orders of persons ordained by any such bishop, in accordance with the provisions of this Act, shall be issued in the name and be subscribed with the signature of such bishop, as commissary of the bishop of the diocese at whose request and by whose commission he shall officiate in conferring such orders, and shall be sealed with the seal of the bishop of such diocese,

and all such acts of ordination by any such bishop shall be recorded and registered in like manner as if they had been performed by the bishop of such diocese

5 Provided always, that nothing in this Act contained shall be construed to authorize any such bishop to use or exercise any jurisdiction whatsoever within the United Kingdom of Great Britain and Ireland

Act not to confer jurisdiction in United Kingdom on such East Indian, etc, bishops

THE COINAGE (COLONIAL OFFENCES) ACT, 1853

(16 & 17 Vict, c 48)

An Act for the Punishment of Offences in the Colonies in relation to the Coin

[4th August, 1853]

[*Preamble, reciting 2 & 3 Will 4, c 34,¹ amended by 7 Will 4 & 1 Vict, c 90, s 5, and enacting words Rep 55 & 56 Vict, c 19 (S L R)*]

1. The provisions of the said first-mentioned Act,¹ as amended as aforesaid, shall, except as herein-after otherwise provided, extend to and be in force in all her Majesty's colonies and possessions abroad

Extension of recited Acts to the colonies

2 If any person shall import into any of her Majesty's colonies or possessions abroad any false or counterfeit coin resembling or apparently intended to resemble or pass for any of her Majesty's current gold or silver coin coined in any of her Majesty's mints (whether in the United Kingdom or elsewhere), knowing the same to be false or counterfeit, he shall be liable * * * *² to be transported for life * * * *

Punishment for importing counterfeit coin into the colonies

¹ 2 & 3 Will 4, c 34, was repealed as to the United Kingdom only by 24 & 25 Vict, c 95, it has not been included in this compilation as being practically superseded by Indian legislation see s 4, *post*

² Words repealed by 55 & 56 Vict, c 19 (S L R)

This Act not to apply in any colony to any offence for the punishment whereof local provisions are already made

3. Provided always, that where by the law now in force in any such colony or possession provision is made for the punishment of offences relating to the coin, or relating to specified descriptions of the coin, the said Act and this Act respectively, so far as respects any offence punishable under the provisions of the law now in force as aforesaid, shall not extend to such colony or possession, but such offence shall be punished in such colony or possession as if this Act had not been passed

Local legislatures may vary the provisions of this Act, etc

4. Provided also, that it shall be lawful for the local legislature of any such colony or possession, by any Act, law, or ordinance to be passed or made in the manner and subject to the conditions in and subject to which Acts, laws, or ordinances may be passed or made by such local legislature, to alter or repeal, as regards such colony or possession, all or any of the provisions by this Act extended or made applicable to the said colonies or possessions, and generally by such Acts, laws, or ordinances to make such provision as they see fit in relation to the matters to which the said first-mentioned Act and this Act extend, in like manner as if this Act had not been passed

THE COLONIAL BISHOPS ACT, 1853

(16 & 17 Vict, c. 49.)

An Act to extend the Provisions of an Act of the Fifteenth and Sixteenth Years of Her present Majesty, intituled " An Act to enable Colonial and other Bishops to perform certain Episcopal Functions, under Commission from Bishops of England and Ireland "

[4th August, 1853.]

[*Preamble, reciting 15 & 16 Vict, c 52, s 2, rep 55 & 56 Vict, c 19 (S L R)*]

Persons ordained by an East Indian, etc, bishop in another colonial diocese shall have like rights as if ordained in such bishop

1. * * * *¹ All persons who² * * * shall be ordained deacon or priest by any of the said bishops in or for the diocese of the bishop of any other of her Majesty's foreign or colonial possessions, upon his request in writing, shall be entitled to all the same rights, privileges, and advantages, as if he had been ordained by such bishop within the limits of a diocese over which he was at the time himself actually exercising jurisdiction and residing therein

¹ Words repealed by 55 & 56 Vict, c 19 (S L R), have been omitted

² The words " have been or hereafter " were repealed by 55 & 56 Vict, c 19 (S L R)

THE GOVERNMENT OF INDIA ACT, 1853 ¹

(16 & 17 Vict., c. 95)

An Act to provide for the Government of India

[20th August, 1853]

[Preamble, reciting 3 & 4 Will 4, c 85, which continued the territories therein mentioned under the Government of the East India Company for a term ending on the 30th April, 1854, rep 55 & 56 Vict , c 19 (S L R)]

1 [Continuance of powers, etc , of East India Company until Parliament shall otherwise provide Rep 55 & 56 Vict , c 19 (S L R)]

2 to 14 [Rep 11 & 42 Vict , c 79 (S L R)]

15. The provisions of the Government of India Act, 1833, relating to the division of the presidency of Fort William in Bengal into two presidencies, and to the measures consequent thereupon, which have been suspended under the authority of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter fifty-two, shall remain suspended until the court of directors, under the direction and control of the Board of Commissioners for the Affairs of India, shall otherwise direct, Provisions of 3 & 4 Will 4, c 85, as to dividing Bengal into two presidencies, suspended by 5 & 6 Will 4, c 52, shall remain suspended, etc

and during the continuance of such suspension the provisions of such last-mentioned Act, authorizing the appointment of a lieutenant governor for the North-Western Provinces, then under the government of the presidency of Fort William in Bengal, and the appointments and arrangements made thereunder, shall remain in full force

16 It shall be lawful for the said court of directors, under such direction and control as aforesaid, if and when they think fit at any time A separate governor may be appointed for the presidency of Bengal, etc ,
2* * * *, to declare that the Governor General of India shall not be governor of the presidency of Fort William in Bengal, but that a separate governor shall be appointed for such presidency,

and in such case a separate governor shall be from time to time appointed for such presidency accordingly, in manner provided by the Government of India Act, 1833, in the case of vacancies happening in the offices of the governors of the presidencies of Fort Saint George and Bombay * * * * *

¹ Short title given by 59 & 60 Vict , c 14 The provisions of this statute cannot be affected by legislation in India—see 24 & 25 Vict , c 67, s 22 For digest and notes, see *Ilbert's Government of India*, pp 306—308

² The words “ after the passing of this Act ” were repealed by 55 & 56 Vict , c 19 (S L R)

³ Words repealed by 55 & 56 Vict , c 19 (S L R) , have been omitted

and in the
meantime a
lieutenant
governor may
be appointed
for part of
Bengal

and unless and until a separate governor of such presidency shall be constituted as aforesaid, it shall be lawful for the court of directors under such direction and control as aforesaid, if and when they think fit, at any time 1* * * * * to authorize and direct the Governor General of India in council to appoint from time to time any servant of the said Company who shall have been ten years in their service in India to the office of lieutenant governor of such part of the territories under the presidency of Fort William in Bengal as for the time being may not be under the lieutenant governor of the said North-Western Provinces
* * * * *

Directors
may create
one new
presidency or
authorize
Governor
General to
appoint a
lieutenant
governor

17. It shall be lawful for the court of directors of the said Company, under such direction and control, if and when they think fit, to constitute one new presidency within the territories subject for the time being to the government of the said Company, and to declare and appoint what part of such territories shall be subject to the government of such new presidency,

and unless and until such new presidency be constituted as aforesaid, it shall be lawful for the said court of directors under such direction and control as aforesaid, if and when they think fit, to authorize (in addition to such appointments as are herein-before authorized, to be continued and made for the territories now and heretofore under the said presidency of Fort William) the appointment by the said Governor General in Council of a lieutenant governor for any part of the territories for the time being subject to the government of the said Company, and to declare for what part of the said territories such lieutenant governor shall be appointed and the extent of his authority, and from time to time to revoke or alter any such declaration

18 [*Rep 28 & 29 Vict, c 17, s. 3*]

Enactments
as to existing
presidencies
to extend to
new presi-
dencies

19. The provisions of the Government of India Act, 1833, as amended 3 & 4^o by this Act, and all other provisions now in force for the administration of the executive government of the Presidencies of Fort Saint George and Bombay respectively, and authorizing the revocation and suspension of the appointment of councils and the reduction of the number of councillors in such presidencies respectively, and as to the powers, duties, functions, and immunities of the governors of such presidencies respectively and of such governors in their respective councils, and concerning or applicable to the appointment and provisional appointment of governors and members of council of the said presidencies respectively on vacancies, and otherwise providing for vacancies in the office of any such governor, and concerning the removal and dismissal of such governors and members of council, and the revocation of appointments and provisional appointments of governors and members of council of such presidencies, and concerning the salaries and emoluments of such

¹ The words "after the passing of this Act" were repealed by 55 & 56 Vict, c 19 (S L R)

² Words repealed by 55 & 56 Vict, c 19 (S L R), have been omitted

governors and members of council, shall extend and be applicable in like manner to and in the case of any new presidency to be established as aforesaid under this Act, and also to and in the case of the presidency of Agra, in case the same be constituted under the provisions of the Government of India Act, 1833,

and the said provisions concerning appointments of governors and members of council on vacancies as amended by this Act, shall extend and be applicable to and for the first appointment of a governor and members of council of such new presidency and the presidency of Agra aforesaid

20 and 21 [*Rep 41 & 42 Vict , c 79 (S L R)*]

22 to 24. [*Rep 24 & 25 Vict , c 67, s 2*]

25. [*Rep 41 & 42 Vict , c 79 (S L R)*]

26. [*Rep 24 & 25 Vict , c 67, s 2*]

27 All fines and penalties incurred by the sentence or order of any court of justice within the territories under the government of the East India Company, and all forfeitures for crimes of any real or personal estate within the said territories, and all real and personal estate within the said territories escheating or lapsing for want of an heir or successor, and all property within the said territories devolving as *bonâ vacantia* for want of a rightful owner, shall (as part of the revenues of India) belong to the East India Company in trust for her Majesty for the service of the government of India Fines and penalties, etc

Provided also, that the Governor General in Council, and any other person or persons who may be authorized by any Act passed in that behalf by the Governor General in Council, shall have power (in cases where the same may appear suitable and proper) to make any grant or disposition of any property so accruing by forfeiture, escheat, or otherwise, to or in favour of any relative or connexion of the person from whom the same shall have accrued, or to or in favour of any other person or persons

28 [*Rep 55 & 56 Vict , c 19 (S. L. R)*]

29 to 31. [*Rep 41 & 42 Vict , c 79 (S L R)*]

32 Nothing in any enactment now in force, or any charter, relating to the said Company, shall be taken to prevent the establishment, by the court of directors (under the direction and control of the said Board of Commissioners) * * * *¹ from time to time, of any regulations which they may deem expedient in relation to the absence on sick leave or furlough of all or any officers and persons in the service of the said Company in India, or receiving salaries from the said Company there, Regulations as to absence on sick leave or furlough

¹ The words " at any time after the passing of this Act " were repealed by 55 & 56 Vict , c. 19 (S L R)

under which they respectively may be authorized to repair to and reside in Europe or elsewhere out of the limits of the said Company's charter without forfeiture of pay or salary during the times and under the circumstances during and under which they may now be permitted (while absent from their duty) to reside in places out of India within the limits of the said Company's charter, or during such times and under such circumstances as by such regulations may be permitted

Salaries

33 and 34. [*Rep 41 & 42 Vict, c 79 (S L R)*]

35. There shall be paid to the several officers herein-after named the several annual salaries set against the names of such officers respectively subject to such reduction as the court of directors, with the sanction of the said Board, may from time to time think fit (that is to say),

To the Commander-in-Chief of the Forces in India, one hundred thousand Company's rupees in lieu of all other pay and allowances,

To each Lieutenant Governor, one hundred thousand Company's rupees,

* * * * *

The several salaries aforesaid to be subject to the provisions and regulations of the Government of India Act, 1853, concerning the salaries³ & 4 Will thereby appointed * * * * *¹ 4, c 85

36 to 43. [*Rep 41 & 42 Vict, c 79 (S L R)*]

THE CUSTOMS CONSOLIDATION ACT, 1853

(16 & 17 Vict, c. 107.)

An Act to amend and consolidate the Laws relating to the Customs of the United Kingdom and of the Isle of Man, and certain Laws relating to Trade and Navigation and the British Possessions

[20th August, 1853]

* * * * *

Regulations
as to the
coasting trade
of India

329.² And with regard to the coasting trade of India it shall be lawful for the Governor General of India in Council to make any regulations authorizing or permitting the conveyance of goods or passengers

¹ Words repealed by 41 & 42 Vict, c 79 (S L R), have been omitted
² This is the only section which appears to be applicable to India

from one part of the possessions of the East India Company to another part thereof in other than British ships, subject to such restrictions or regulations as he may think necessary,

and such regulations shall be of equal force and effect with any laws and regulations which the said Governor General in Council is now or may hereafter be authorized to make, and shall be subject to disallowance and repeal in like manner as any other laws or regulations made by the said Governor General in Council, under the laws from time to time in force for the government of the British territories in India and shall be transmitted to England and be laid before both Houses of Parliament, in the same manner as any other laws or regulations which the Governor General in Council is now or may hereafter be empowered to make

* * * * *

THE GOVERNMENT OF INDIA ACT, 1854 ¹

(17 & 18 Vict, c 77)

An Act to provide for the Mode of passing Letters Patent and other Acts of the Crown relating to India, and for vesting certain Powers in the Governor General of India in Council

[7th August, 1854]

[*Preamble and enacting words Rep (U K) 55 & 56 Vict , c 19 (S L R)*]

1. [*Rep as to U K 55 & 56 Vict , c 19 (S L R) Omitted as being obsolete* ²]

2 [*Rep 41 & 42 Vict , c 79 (S L R)*]

3 It shall be lawful for the Governor General of India in Council, with the sanction and approbation of the Court of Directors of the East India Company, acting under the control and direction of the Board of Commissioners for the Affairs of India, from time to time, by proclamation⁴ duly published, to take under the immediate authority and management of the said Governor General of India in Council any part or parts of the territories for the time being in the possession or under the govern-

Governor General may assume the government of any parts of India

¹ The provisions of this statute cannot be affected by legislation in India—see 24 & 25 Vict, c 67, s 22

² See s 3 of the Government of India Act, 1858 (21 & 22 Vict, c 106), *post*

³ For form of proclamation, see the proclamation in respect of the territories now forming the North West Frontier Province, Gazette of India, 1901, Pt I, p 857, and *ibid*, 1902, p 575

ment of the said company, and thereupon to give all necessary orders and directions respecting the administration of such part or parts of the said territories, or otherwise to provide for the administration thereof

¹ Provided always, that no law or regulation in force at any such time as regards any such portion of territory shall be altered or repealed except by law or regulation made by the Governor General of India in Council.

Governor General may limit the extent of the authority of Governors, etc

4. It shall be lawful for the said Governor General of India in Council, with the like sanction and approbation, from time to time, to declare and limit the extent of the authority of the Governor in Council, Governor, or Lieutenant Governor of Bengal, or of Agra, or the North-West Provinces who is now or may be hereafter appointed

Powers as to Presidency of Fort William in Bengal not transferred to Governor, etc, of Bengal, Agra, or North-West Provinces, and in Council Meaning of India.

5 All powers now or at any time vested in or exercised by the Governor in Council or Governor of the Presidency of Fort William in Bengal, or in or by the Governor General of India in Council in respect of such presidency, and which for the time being shall not have been transferred to the Governor in Council, Governor, or Lieutenant Governor of Bengal, or of Agra, or the North-West Provinces, shall be vested in and may be exercised by the Governor General of India in Council, and the Governor General of India shall no longer be the Governor of the said Presidency of Fort William in Bengal

6. [*Rep 41 & 42 Vict, c 79 (S L. R)*]

7. In the construction of this Act "India" shall be construed to mean the territories for the time being in the possession and under the Government of the East India Company

Construction.

8. This Act shall be read and construed as part of the Government of India Act, 1853

16 & 17
Vict, c 95

THE REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES (SCOTLAND) ACT, 1854

(17 & 18 Vict, c. 80.)

* * * * *

²58. Every extract of any entry in the register books to be kept under the provisions of this Act, duly authenticated and signed by the Regis-

¹ See the Government of India Act, 1912 (2 & 3 Geo 5, c 6), s 3, printed in Vol II

² Amended by 10 Edw 7 and 1 Geo 5, c 32 See Vol II This is the only section applicable to British India

trar General, if such extract shall be from the registers kept at the General Registry Office, and by the registrar if from any parochial or district register, shall be admissible as evidence in all parts of Her Majesty's dominions, without any other or further proof of such entry

* * * * *

THE FOREIGN TRIBUNALS EVIDENCE ACT, 1856

(19 & 20 Vict , c 113.)

An Act to provide for taking Evidence in Her Majesty's Dominions in relation to Civil and Commercial Matters pending before Foreign Tribunals

[29th July, 1856]

[*Preamble and enacting words Rep (U K) 55 & 56 Vict , c 19 (S L R.)*]

1. Where, upon an application for this purpose, it is made to appear to any court or judge having authority under this Act that any court or tribunal of competent jurisdiction in a foreign country, before which any civil or commercial matter is pending, is desirous of obtaining the testimony in relation to such matter of any witness or witnesses within the jurisdiction of such first mentioned court, or of the court to which such judge belongs, or of such judge, it shall be lawful for such court or judge to order the examination upon oath, upon interrogatories or otherwise, before any person or persons named in such order, of such witness or witnesses accordingly,

Order for the examination of witnesses in relation to matters pending before a foreign tribunal

and it shall be lawful for the said court or judge, by the same order, or for such court or judge, or any other judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order for the purpose of being examined, or the production of any writings or other documents to be mentioned in such order, and to give all such directions as to the time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just,

and any such order may be enforced in like manner as an order made by such court or judge in a cause depending in such court or before such judge.

Certificate of ambassador, etc, sufficient evidence in support of application

2 A certificate under the hand of the ambassador, minister, or other diplomatic agent of any foreign power received as such by her Majesty, or in case there be no such diplomatic agent, then of the consul general or consul of any such foreign power at London received and admitted as such by her Majesty, that any matter in relation to which an application is made under this Act, is a civil or commercial matter pending before a court or tribunal in the country of which he is the diplomatic agent or consul having jurisdiction in the matter so pending, and that such court or tribunal is desirous of obtaining the testimony of the witness or witnesses to whom the application relates, shall be evidence of the matters so certified,

but where no such certificate is produced, other evidence to that effect shall be admissible

Examination of witnesses to be taken upon oath

3 It shall be lawful for every person authorized to take the examination of witnesses by any order made in pursuance of this Act to take all such examinations upon the oath of the witnesses or affirmation in cases where affirmation is allowed by law instead of oath, to be administered by the person so authorized,

and if upon such oath or affirmation any person making the same wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury

Expenses of witnesses

4 Provided always that every person whose attendance shall be so required shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial

Extent of right of refusal to answer questions and to produce documents

5 Provided also, that every person examined under any order made under this Act shall have the like right to refuse to answer questions tending to criminate himself, and other questions, which a witness in any cause pending in the court by which or by a judge whereof or before the judge by whom the order for examination was made would be entitled to, and that no person shall be compelled to produce under any such order as aforesaid any writing or other document that he would not be compellable to produce at a trial of such a cause

Certain courts and judges to have authority under this Act

6 Her Majesty's Superior Courts of Common Law at Westminster and in Dublin respectively, the Court of Session in Scotland, and any Supreme Court in any of her Majesty's colonies or possessions abroad, and any judge of any such court, and every judge in any such colony or possession who by any Order of her Majesty in Council may be appointed for this purpose, shall respectively be courts and judges having authority under this Act

THE EAST INDIA LOANS ACT, 1858

(21 & 22 Vict., c. 3.)

An Act for enabling the East India Company to raise Money in the United Kingdom for the Service of the Government of India

[22nd March, 1858]

[*Preamble and enacting words Rep 55 & 56 Vict , c 19 (S L R)*]

1 It shall be lawful for the Court of Directors of the East India Company, under the direction and control of the Board of Commissioners for the Affairs of India, at any time or times before the thirtieth day of April one thousand eight hundred and fifty-nine, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom for the service of the government of India any sum or sums of money not exceeding in the whole eight millions as hereinafter provided

2 It shall be lawful for the said Court of Directors under such direction and control as aforesaid from time to time to borrow upon bonds, to be issued under the common seal of the said Company, all or any part of the money hereby authorized to be raised as aforesaid, such bonds to be for such respective amounts, payable after such notice and at such rate or rates of interest, as the said Court of Directors, under such direction and control, may think fit

bonds, etc., not exceed eight millions, and no money shall be raised or secured under the authority of this Act after the said thirtieth day of April one thousand eight hundred and fifty-nine, or, if Parliament be then sitting, after the end of the then session of Parliament * * * * *

7. [*Rep. as to U K. 38 & 39 Vict, c 66 (S L R)* Omitted as being probably obsolete ²]

Securities to be charged on revenues of India

8. All bonds and debentures to be issued under this Act, and the principal monies and interest thereby secured, shall be charged on and payable out of the revenues of the territories under the government of the said Company, in like manner as other liabilities incurred on account of the government of the said territories

Provisions of 5 & 6 Will 4, c 64, s 4, as to composition for stamp duties on India bonds extended to bonds, etc., under this Act

9. The provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the said Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repealed and re-enacted with reference thereto

10. [*Rep 55 & 56 Vict, c 19 (S L R)*]

11. [*Rep 37 & 38 Vict, c 3, s 15*]

Existing powers of the Company not prejudiced.

12 This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Company at the time of the passing thereof

THE GOVERNMENT OF INDIA ACT, 1858 ³

(21 & 22 Vict, c. 106.)

An Act for the better Government of India

[2nd August, 1858]

[*Preamble, reciting 16 & 17 Vict, c 95, and enacting words Rep 55 & 56 Vict, c 19 (S L R)*]

Transfer of the Government of India to Her Majesty

Territories under the government

1 The government of the territories now in the possession or under the government of the East India Company and all powers in relation

¹ Rest of the section was repealed (U K) by 38 & 39 Vict c 65 (S L R)

² This section took power for the Court of Directors to raise money for the repayment of principal monies

³ The provisions of this statute cannot be affected by legislation in India—see 24 & 25 Vict, c 67, s 22, post

to government vested in or exercised by the said Company in trust for Her Majesty, shall cease to be vested in or exercised by the said Company,

of the East India Company to be vested in Her Majesty, and powers to be exercised in her name

and all territories in the possession or under the government of the said Company, and all rights vested in or which if this Act had not been passed might have been exercised by the said Company in relation to any territories, shall become vested in Her Majesty, and be exercised in her name,

and for the purposes of this Act India shall mean the territories vested in Her Majesty as aforesaid, and all territories which may become vested in Her Majesty by virtue of any such rights as aforesaid

2. India shall be governed by and in the name of Her Majesty,

India to be governed by and in the name of Her Majesty, etc

and all rights in relation to any territories which might have been exercised by the said Company if this Act had not been passed shall and may be exercised by and in the name of Her Majesty as rights incidental to the government of India,

and all the territorial and other revenues of or arising in India and all tributes and other payments in respect of any territories which would have been receivable by or in the name of the said Company if this Act had not been passed, shall be received for and in the name of Her Majesty, and shall be applied and disposed of for the purposes of the government of India alone, subject to the provisions of this Act

3 Save as herein otherwise provided, one of Her Majesty's Principal Secretaries of State shall have and perform all such or the like powers and duties in anywise relating to the government or revenues of India, and all such or the like powers over all officers appointed or continued under this Act, as might or should have been exercised or performed by the East India Company, or by the Court of Directors or Court of Proprietors of the said Company, either alone or by the direction or with the sanction or approbation of the Commissioners for the Affairs of India in relation to such government or revenues, and the officers and servants of the said Company respectively, and also all such powers as might have been exercised by the said Commissioners alone,

Secretary of State to exercise powers now exercised by the Company, etc

17 & 18 Vict., c. 77, which by the Government of India Act, 1854,¹ or otherwise is required to be countersigned by the President of the Commissioners for the Affairs of India, shall in lieu of being so countersigned be countersigned by one of Her Majesty's Principal Secretaries of State

4 * * * *² any four of Her Majesty's Principal Secretaries of State for the time being, and any four of the Under Secretaries

¹ S. 1 of the Government of India Act, 1854 (17 & 18 Vict., c. 77), which the provision referred to, was repealed as to the U. K. by 55 & 56 Vict., c. 19.

² Words repealed by 55 & 56 Vict., c. 19 (S. L. R.), have been omitted.

as members
in the House
of Commons

time being to Her Majesty's Principal Secretaries of State, may sit and vote as members of the House of Commons,

but not more than four such Principal Secretaries and not more than four such Under Secretaries shall sit as members of the House of Commons at the same time

5. [*Rep 41 & 42 Vict, c. 79 (S L R.)*]

Salaries of
one Secretary
of State
and his Under
Secretaries to
be paid out
of the revenue
of India

6. In case Her Majesty be pleased to appoint a fifth Principal Secretary of State, there shall be paid out of the revenues of India to such Principal Secretary of State and to his Under Secretaries respectively the like yearly salaries as may for the time being be paid to any other of such Secretaries of State and his Under Secretaries respectively

Council of India.

Council
of India
established.

7. For purposes of this Act a Council shall be established, to consist of fifteen members, and to be styled the Council of India,

and henceforth the Council in India now bearing that name shall be styled the Council of the Governor General of India.

8. [*Rep 41 & 42 Vict, c 79 (S L R.)*]

9. [*Rep 55 & 56 Vict, c 19 (S L R.)*]

The major
part of the
Council to be
persons who
shall have
served or
resided ten
years in
India, etc

10. The major part of the persons to be elected by the Court of Directors and the major part of the persons to be first appointed by Her Majesty after the passing of this Act to be members of the Council, shall be persons who shall have served or resided in India for ten years at the least, and (excepting in the case of late and present directors and officers on the home establishment of the East India Company who shall have so served or resided), shall not have last left India ²[more than five years] next preceding the date of their appointment,

and no person other than a person so qualified shall be appointed or elected to fill any vacancy in the Council unless at the time of the appointment or election nine at the least of the continuing members of the Council be persons qualified as aforesaid

Tenure of
office of
members of
the Council

11. Every member of the Council appointed or elected under this Act shall hold his office during good behaviour

Provided that it shall be lawful for Her Majesty to remove any such member from his office upon an address of both Houses of Parliament.

Members of
Council not
to sit in
Parliament

12 No member of the Council appointed or elected under this Act shall be capable of sitting or voting in Parliament

¹ See now 7 Edw 7, c 35, s 1

² Substituted for " more than ten years " by 7 Edw 7, c 35, s, 2;

13 There shall be paid to each member of the Council the yearly Salaries of salary of one thousand two hundred pounds, out of the revenues of members of India Council

14 [*Rep 32 & 33 Vict , c 97, s 5*]

15 The secretaries and other officers and servants on the home estab- Establish-
lishment of the said Company, and on the establishment of the Commis- ment of the
sioners for the Affairs of India, immediately before the commencement Secretary of
of this Act, shall on such commencement be and form the establishment State in
of the Secretary of State in Council Council

and the Secretary of State shall with all convenient speed make such arrangement of the said establishments, and such reductions therein, as may seem to him consistent with the due conduct of the public business, and shall within six months after the commencement of this Act submit a scheme for the permanent establishment to Her Majesty in Council,

and it shall be lawful for Her Majesty, by the advice of her Privy Council, upon consideration of such scheme, to fix and declare what shall constitute and be the establishment of the Secretary of State in Council, and what salaries shall be paid to the persons on the establishment,

and the Order of Her Majesty in Council shall be laid before both Houses of Parliament within fourteen days after the making thereof, provided Parliament be then sitting, or otherwise within fourteen days after the next meeting thereof,

and after such establishment has been formed by such Order in Council, no addition of persons shall be made to such establishment nor any addition made to the salaries authorized by such Order, except by a similar Order in Council, to be laid in like manner before both Houses of Parliament

17. [*Rep 41 & 42 Vict, c 79 (S L R)*]

Super-
annuation to
officers on
the establish-
ment of the
Secretary of
State in
Council

18. It shall be lawful for Her Majesty by warrant countersigned as aforesaid to grant to any such secretary, officer, or servant as aforesaid, retained on such last-mentioned establishment, such compensation, superannuation, or retiring allowance on his ceasing to hold office as might have been granted to him if this Act had not been passed,

and the transfer of any person to the service of the Secretary of State in Council shall be deemed to be a continuance of his previous appointment or employment, and shall not prejudice any claims which he might have had in respect of length of service, if his service under the said Company or Commissioners had continued, and it shall be lawful for Her Majesty, by warrant countersigned as aforesaid, to grant to any secretary, officer or servant appointed on the said establishment after the first formation thereof such compensation, superannuation, or retiring allowance, ¹[or to his legal personal representative such gratuity,] as, ^{4 & 5 Wil 4, c. 24.} under the Superannuation Act, 1834, or any other Act for the time being in force concerning superannuations and other allowances to persons having held civil offices in the public service, ¹[or to personal representatives of such persons,] may be granted to persons appointed on the establishment of one of Her Majesty's Principal Secretaries of State, ¹[or to personal representatives of such persons]

Duties and procedure of the Council

uties of the
ouncil, etc

19. The Council shall, under the direction of the Secretary of State, and subject to the provisions of this Act, conduct the business transacted in the United Kingdom in relation to the government of India and the correspondence with India

But every order or communication sent to India shall be signed by one of the Principal Secretaries of State,

and, save as expressly provided by this Act, every order in the United Kingdom in relation to the government of India under this Act shall be signed by such Secretary of State,

and all despatches from governments and presidencies in India, and other despatches from India, which if this Act had not been passed should have been addressed to the Court of Directors or to their secret committee, shall be addressed to such Secretary of State

Secretary of
State to
divide the
Council into
committees,
and to regu-
late the
transaction of
business

20. It shall be lawful for the Secretary of State to divide the Council into committees for the more convenient transaction of business, and from time to time to re-arrange such committees, and to direct what departments of the business in relation to the government of India under this Act shall be under such committees respectively, and generally to direct the manner in which all such business shall be transacted

¹ Inserted by 1 & 2 Geo 5, c 25, s 1

21. The Secretary of State shall be the President of the Council, President and Vice President of the Council
with power to vote,

and it shall be lawful for such Secretary of State in Council to appoint from time to time any member of such Council to be Vice-President thereof,

and any such Vice-President may at any time be removed by the Secretary of State

22 All powers by this Act required to be exercised by the Secretary of State in Council, and all powers of the Council, shall and may be exercised at meetings of such Council, at which not less than five members shall be present, Meeting of the Council

and at every meeting the Secretary of State, or in his absence the Vice-President, if present, shall preside, and, in the absence of the Secretary of State and Vice-President, one of the members of the Council present shall be chosen by the members present to preside at the meeting,

and such Council may act notwithstanding any vacancy therein

Meetings of the Council shall be convened and held when and as the Secretary of State shall from time to time direct

Provided that one such meeting at least be held in every week

23 At any meeting of the Council at which the Secretary of State is present, if there be a difference of opinion on any question other than the question of the election of a member of Council, or other than any question with regard to which a majority of the votes at a meeting is herein-after declared to be necessary, the determination of the Secretary of State shall be final, Procedure at meetings.

and in case of an equality of votes at any meeting of the Council, the Secretary of State, if present, and in his absence the Vice-President, or presiding member, shall have a casting vote,

and all acts done at any meeting of the Council in the absence of the Secretary of State, except the election of a member of the Council, shall require the sanction or approval in writing of the Secretary of State,

and in case of difference of opinion on any question decided at any meeting, the Secretary of State may require that his opinion and the reasons for the same be entered in the minutes of the proceedings, and any member of the Council who may have been present at the meeting may require that his opinion, and any reasons for the same that he may have stated at the meeting, be entered in like manner

24. Every order or communication proposed to be sent to India, and every order proposed to be made in the United Kingdom by the Secretary of State, under this Act, shall, unless the same has been submitted to a meeting of the Council, be placed in the council room for the perusal Orders, etc., to be opened to the perusal of members of Council who may record

their
opinions.

of all members of the Council during seven days before the sending or making thereof, except in the cases herein-after provided,

and it shall be lawful for any member of the Council to record, in a minute book to be kept for that purpose, his opinion with respect to each such order or communication, and a copy of every opinion so recorded shall be sent forthwith to the Secretary of State

Secretary of
State acting
against
opinions of
the majority
to record his
reasons

25 If a majority of the Council record as aforesaid their opinions against any act proposed to be done, the Secretary of State shall, if he do not defer to the opinions of the majority, record his reasons for acting in opposition thereto

Provision
for cases of
urgency

26 Provided that where it appears to the Secretary of State that the despatch of any communication, or the making of any order, not being an order for which a majority of the votes at a meeting is hereby made necessary, is urgently required, the communication may be sent or order given notwithstanding the same may not have been submitted to a meeting of the Council or deposited for seven days as aforesaid, the urgent reasons for sending or making the same being recorded by the Secretary of State, and notice thereof being given to every member of the Council, except in the cases herein-after mentioned

Orders now
sent through
secret com-
mittee may
be sent by
Secretary of
State without
communi-
cation with
the Council

27. Provided also, that any order, not being an order for which a majority of votes at a meeting is hereby made necessary, which might, if this Act had not been passed, have been sent by the Commissioners for the Affairs of India through the secret committee of the Court of Directors to Governments or Presidencies in India, or to the officers or servants of the said Company, may, after the commencement of this Act, be sent to such Governments or Presidencies, or to any officer or servant in India, by the Secretary of State without having been submitted to a meeting or deposited for the perusal of the members of the Council, and without the reasons being recorded or notice thereof given as aforesaid

As to com-
munication
of secret
despatches
from India

28. Any despatches to Great Britain which might if this Act had not been passed have been addressed to the secret committee of the Court of Directors, may be marked "secret" by the authorities sending the same,

and such despatches shall not be communicated to the members of the Council, unless the Secretary of State shall so think fit and direct

Appointments and Patronage

Appointments
to be made
by or with
the approba-
tion of Her
Majesty

29. The appointments of Governor General of India * * * and Governors of Presidencies in India now made by the Court of Directors with the approbation of Her Majesty, and the appointments

* * *
1 The words "fourth ordinary member of the Council of the Governor General of India" were repealed by 41 & 42 Vict., c. 79 (S. L. R.)

of Advocate General for the several Presidencies now made with the approbation of the Commissioners for the Affairs of India, shall be made by Her Majesty by warrant under Her Royal Sign Manual, * * *

* * 1

the appointments of the Lieutenant Governors of provinces or territories shall be made by the Governor General of India, subject to the approbation of Her Majesty,

and all such appointments shall be subject to the qualifications now by law affecting such offices respectively

30. All appointments to offices, commands and employments in India, all promotions, which by law, or under any regulations, usage or custom, are now made by any authority in India, shall continue to be made in India by the like authority, and subject to the qualifications, conditions, and restrictions now affecting such appointments respectively, Appoint
ments now
made in India
to continue to
be made
there

but the Secretary of State in Council, with the concurrence of a majority of members present at a meeting, shall have the like power to make regulations for the division and distribution of patronage and power of nomination among the several authorities in India, and the like power of restoring to their stations, offices, or employments, officers and servants suspended or removed by any authority in India, as might have been exercised by the said Court of Directors, with the approbation of the Commissioners for the Affairs of India, if this Act had not been passed Powers of
Secretary of
State in
Council as to
appoint-
ments, etc,
in India

31 [Rep 41 & 42 Vict, c 79 (S L R)]

32. * * * * 2 regulations shall be made by the Secretary of State in Council, with the advice and assistance of the commissioners for the time being acting in execution of Her Majesty's Order in Council of twenty-first May one thousand eight hundred and fifty-five "for regulating the admission of persons to the civil service of the Crown, for admitting all persons being natural-born subjects of Her Majesty (and of such age and qualification as may be prescribed in this behalf) who Secretary of
State in
Council to
make regu-
lations for the
admission of
candidates to
the Civil Ser-
vice of India.

be recommended for appointment according to the order of their proficiency as shown by such examinations,

and such persons only as shall have been so certified as aforesaid shall be appointed or admitted to the Civil Service of India by the Secretary of State in Council.

Regulations made by Secretary of State to be laid before Parliament

Provided always, that all regulations to be made by the said Secretary of State in Council under this Act shall be laid before Parliament within fourteen days after the making thereof, if Parliament be sitting, and if Parliament be not sitting, then within fourteen days after the next meeting thereof

Other appointments and admissions to service vested in Her Majesty.

33. All appointments to cadetships, naval and military, and all admissions to service not herein otherwise expressly provided for, shall be vested in Her Majesty,

and the names of persons to be from time to time recommended for such cadetships and service shall be submitted to Her Majesty by the Secretary of State

Regulations to be made for admitting persons to be examined for cadetships in engineers and artillery

34 * * * *¹ Regulations shall be made for admitting any persons being natural-born subjects of Her Majesty (and of such age and qualifications as may be prescribed in this behalf) who may be desirous of becoming candidates for cadetships in the engineers and in the artillery, to be examined as candidates accordingly, and for prescribing the branches of knowledge in which such candidates shall be examined, and generally for regulating and conducting such examinations

Not less than one tenth of persons recommended for military cadetships to be selected from sons of persons who have served in India. Nominations for cadetships to be made by Secretary of State and members of Council.

35. Not less than one-tenth of the whole number of persons to be recommended in any year for military cadetships (other than cadetships in the engineers and artillery) shall be selected according to such regulations as the Secretary of State in Council may from time to time make in this behalf from among the sons of persons who have served in India in the military or civil services of Her Majesty, or of the East India Company

36. Except as aforesaid, all persons to be recommended for military cadetships shall be nominated by the Secretary of State and members of Council, so that out of seventeen nominations the Secretary of State shall have two and each member of Council shall have one,

but no person so nominated shall be recommended unless the nomination be approved of by the Secretary of State in Council

Regulations as to appointments and admissions to service

37. Save as herein-before provided, all powers of making regulations in relation to appointments and admissions to service and other matters connected therewith, and of altering or revoking such regulations, which if this Act had not been passed might have been exercised by the Court of Directors or Commissioners for the Affairs of India, may be exercised by the Secretary of State in Council,

¹ Words repealed by 55 & 56 Vict, c 19 (S L R.), have been omitted

and all regulations in force at the time of the commencement of this Act in relation to the matters aforesaid shall remain in force, subject nevertheless to alteration or revocation by the Secretary of State in Council as aforesaid

38 Any writing under the Royal Sign Manual, removing or dismissing any person holding any office, employment, or commission, civil or military, in India, of which, if this Act had not been passed, a copy would have been required to be transmitted or delivered within eight days after being signed by Her Majesty to the chairman or deputy chairman of the Court of Directors, shall, in lieu thereof, be communicated within the time aforesaid to the Secretary of State in Council

Removal of officers by Her Majesty to be communicated to Secretary of State in Council

Transfer of Property

39 All lands and hereditaments, monies, stores, goods, chattels, and other real and personal estate of the said Company, subject to the debts and liabilities affecting the same respectively, and the benefit of all contracts, covenants, and engagements, and all rights to fines, penalties, and forfeitures, and all other emoluments, which the said Company shall be seized or possessed of or entitled to at the time of the commencement of this Act, except the capital stock of the said Company and the dividend thereon, shall become vested in Her Majesty, to be applied and disposed of, subject to the provisions of this Act, for the purposes of the Government of India

Real and personal property of the Company to vest in Her Majesty for the purposes of the government of India

40¹ The Secretary of State in Council, with the concurrence of a majority of votes at a meeting, shall have full power to sell and dispose of all real and personal estate whatsoever for the time being vested in Her Majesty under this Act, as may be thought fit, or to raise money on any such real estate by way of mortgage, and make the proper assurances for that purpose, and to purchase and acquire any land or hereditaments, or any interests therein, stores, goods, chattels, and other property, and to enter into any contracts whatsoever, as may be thought fit for the purposes of this Act,

Powers to sell and purchase, and to enter into contracts vested in Secretary of State in Council, etc

and all property so acquired shall vest in Her Majesty for the service of the Government of India, and any conveyance or assurance of or concerning any real estate to be made by the authority of the Secretary of State in Council may be made under the hands and seals of three members of the Council¹

Revenues

41 The expenditure of the revenues of India, both in India and elsewhere, shall be subject to the control of the Secretary of State in Council,

Expenditure of revenues of India subject to control of

¹ But see further 22 & 23 Vict, c 41

Secretary of
State in
Council

and no grant or appropriation of any part of such revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council

Existing and
future debts
and liabilities
of the Com-
pany and ex-
penses to be
charged on
revenues of
India.

42. * * * *¹ all the bond, debenture, and other debt of the said Company in Great Britain, and all the territorial debt and all other debts of the said Company, and all sums of money, costs, charges, and expenses, which if this Act had not been passed would after the time appointed for the commencement thereof have been payable by the said Company out of the revenues of India, in respect or by reason of any treaties, covenants, contracts, grants, or liabilities then existing, and all expenses, debts, and liabilities which after the commencement of this Act shall be lawfully contracted and incurred on account of the Government of India, and all payments under this Act, shall be charged and chargeable upon the revenues of India alone, as the same would have been if this Act had not been passed, and such expenses, debts, liabilities, and payments as last aforesaid had been expenses, debts, and liabilities lawfully contracted and incurred by the said Company, and such revenues shall not be applied to any other purpose whatsoever,

and all other monies vested in or arising or accruing from property or rights vested in Her Majesty under this Act, or to be received or disposed of by the Council under this Act, shall be applied in aid of such revenues * * * *¹

revenues
remitted to
Great Britain,
and monies
arising in
Great Britain,
to be paid to
Secretary of
State in
Council, etc

43. Such part of the revenues of India as shall be from time to time remitted to Great Britain, and all monies of the said Company in their Treasury or under the care of their cashier, and all other monies in Great Britain of the said Company, or which would have been received by them in Great Britain if this Act had not been passed, and all monies arising or accruing in Great Britain from any property or rights vested in Her Majesty by this Act, or from the sale or disposition thereof, shall be paid to the Secretary of State in Council, to be applied for the purposes of this Act,

and all such monies, except as herein-after otherwise provided, shall be paid into the Bank of England, to the credit of an account to be opened by the Governor and Company of the Bank of England, to be intituled "The Account of the Secretary of State in Council of India,"

and all monies to be placed to the credit of such account under this Act shall be paid out upon drafts or orders signed by three members of the Council and countersigned by the Secretary of State or one of his Under Secretaries, and such account shall be a public account

Provided always, that the Secretary of State in Council may cause to be kept from time to time, under the care of their cashier, in an

¹ Words repealed by 41 & 42 Vict, c 79 (S L R), have been omitted

account to be kept at the Bank of England, such sum or sums of money as they may deem necessary for the payments now made out of money under the care of the cashier of the said Company

44. [*Rep 41 & 42 Vict, c 79 (S. L. R)*]

45. There shall be raised in the books of the Governor and Company of the Bank of England such accounts as may be necessary in respect of any stock or stocks of Government annuities, and all such accounts respectively shall be intituled "The Stock Account of the Secretary of State in Council of India," and every such account shall be a public account

Stock accounts to be opened at the Bank.

46. [*Rep 41 & 42 Vict, c 79 (S. L. R)*]

47. The Secretary of State in Council, by letter of attorney, executed by three members of the Council and countersigned by the Secretary of State or one of his Under Secretaries, may authorize all or any of the cashiers of the Bank of England to sell and transfer all or any part of the stock or stocks standing or that may thereafter stand in the books of the said Bank to the several accounts of the Secretary of State in Council and to purchase and accept stock on the said accounts, and to receive the dividends due and to become due on the several stocks standing or that may thereafter stand on the said accounts, and by any writing signed by three members of the Council and countersigned as aforesaid, may direct the application of the monies to be received in respect of such sales and dividends,

Power to grant letters of attorney for sale, etc, of stock and receipt of dividends

but no stock shall be purchased or sold and transferred by any of the said cashiers, under the authority of such general letter of attorney, except upon an order in writing directed to the said chief cashier and chief accountant from time to time and duly signed and countersigned as aforesaid

48. All Exchequer bills, Exchequer bonds, or other Government securities, or other securities, of whatsoever kind, not herein-before referred to, which shall be held by the Governor and Company of the Bank of England in trust for or on account of the East India Company at the time of the commencement of this Act, shall thenceforward be held by the said Governor and Company in trust for and on account of the Secretary of State in Council,

Provision as to Exchequer bills, bonds, and other securities

and all such securities as aforesaid, and all such securities as may thereafter be lodged with the said Governor and Company by or on behalf of the Secretary of State in Council, shall and may be disposed of and the proceeds thereof applied as may be authorized by order in writing signed by three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries, and directed to the said chief cashier and chief accountant

Powers of borrowing transferred to Secretary of State in Council, etc

49. All powers of issuing bonds, debentures, and other securities for money in Great Britain which, if this Act had not been passed, might have been exercised by the said Company, or the Court of Directors, under the direction and control of the Commissioners for the Affairs of India, or otherwise, shall and may be exercised by the Secretary of State in Council, with the concurrence of a majority of votes at a meeting,

and such securities as might have been issued under the seal of the said Company shall be issued under the hands of three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries

50. [*Rep 55 & 56 Vict , c 19 (S. L R)*]

Present system of issuing warrants for payments to be continued

51. The regulations and practice now acted on by the Court of Directors on the issue of warrants or authorities for the payment of money shall be maintained and acted on by the Secretary of State in Council of India under this Act until the same be altered by the authority of Her Majesty in Council

Provided * * * *¹ that warrants or authorities which have heretofore been signed by two directors of the East India Company shall, after the commencement of this Act, be signed by three members of the Council of India

Audit of accounts in Great Britain

52 It shall be lawful for Her Majesty, by warrant under her Royal Sign Manual, countersigned by the Chancellor of the Exchequer, to appoint from time to time a fit person to be auditor of the accounts of the Secretary of State in Council, and to authorize such auditor to appoint and remove from time to time such assistants as may be specified in such warrant, and every such auditor shall hold office during good behaviour,

and there shall be paid to such auditor and assistants out of the revenues of India such respective salaries as Her Majesty, by warrant as aforesaid countersigned as aforesaid, may direct,

and such auditor shall examine and audit the accounts of the receipt, expenditure, and disposal in Great Britain of all monies, stores, and property applicable for the purposes of this Act, and the Secretary of State in Council shall by the officers and servants of the establishment produce and lay before such auditor from time to time all such accounts, accompanied by proper vouchers for the support of the same, and shall submit to his inspection all books, papers, and writings having relation thereto,

and such auditor shall have power to examine all such officers and servants in Great Britain of the establishment as he may see fit in relation to such accounts, and the receipt, expenditure, or disposal of such

¹ Words repealed by 41 & 42 Vict., c 79 (S L R), have been omitted

monies, stores, and property, and for that purpose, by writing under his hand, to summon before him any such officer or servant,

and such auditor shall report from time to time to the Secretary of State in Council his approval or disapproval of such accounts, with such remarks and observations in relation thereto as he may think fit, specially noting any case, if such there shall be, in which it shall appear to him that any money arising out of the revenues of India has been appropriated to other purposes than those of the Government of India to which alone they are declared to be applicable, and shall specify in detail in his reports all sums of money, stores and property which ought to be accounted for, and are not brought into account or have not been appropriated, in conformity with the provisions of this Act, or have been expended or disposed of without due authority, and shall also specify any defects, inaccuracies, or irregularities which may appear in such accounts, or in the authorities, vouchers, or documents having relation thereto,

and all such reports shall be laid before both Houses of Parliament by such auditor, together with the accounts of the year to which the same may relate

53 The Secretary of State in Council shall, within the first fourteen days during which Parliament may be sitting next after the first day of May in every year, lay before both Houses of Parliament an account for the financial year preceding that last completed of the annual produce of the revenues of India, distinguishing the same under the respective heads thereof, at each of the several Presidencies or Governments, and of all the annual receipts and disbursements at home and abroad on account of the Government of India, distinguishing the same under the respective heads thereof, together with the latest estimate of the same for the last financial year, and also the amount of the debts chargeable on the revenues of India, with the rates of interest they respectively carry, and the annual amount of such interest, the state of the effects and credits at each Presidency or Government, and in England or elsewhere applicable to the purposes of the Government of India, according to the latest advices which have been received thereof, and also a list of the establishment of the Secretary of State in Council, and the salaries and allowances payable in respect thereof,

Accounts to
be annually
laid before
Parliament

and if any new or increased salaries or pensions of fifty pounds a year or upwards have been granted or created within any year, the particulars thereof shall be specially stated and explained at the foot of the account of such year,

and such account shall be accompanied by a statement prepared from detailed reports from each Presidency and district in India in such form as shall best exhibit the moral and material progress and condition of India in each such Presidency

When order to commence hostilities is sent to India, the fact to be communicated to Parliament

54. When any order is sent to India directing the actual commencement of hostilities by Her Majesty's Forces in India, the fact of such order having been sent shall be communicated to both Houses of Parliament within three months after the sending of such order, if Parliament be sitting, unless such order shall have been in the meantime revoked or suspended, and, if Parliament be not sitting at the end of such three months, then within one month after the next meeting of Parliament

Except for repelling invasion, the revenues of India not applicable for any military operation beyond the frontiers

55. Except for preventing or repelling actual invasion of Her Majesty's Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defray the expenses of any military operation carried on beyond the external frontiers of such possessions by Her Majesty's Forces charged upon such revenues

Existing Establishments

Indian Military and Naval Forces to remain under existing conditions of service

56. The Military and Naval Forces of the East India Company shall be deemed to be the Indian Military and Naval Forces of Her Majesty, and shall be under the same obligations to serve Her Majesty as they would have been under to serve the said Company, and shall be liable to serve within the same territorial limits only, for the same terms only, and be entitled to the like pay, pensions, allowances, and privileges, and the like advantages as regards promotion and otherwise, as if they had continued in the service of the said Company such Forces, and all persons hereafter enlisting in or entering the same, shall continue and be subject to all Acts of Parliament, laws of the Governor General of India in Council, and articles of war, and all other laws, regulations, and provisions, relating to the East India Company's Military and Naval Forces respectively, as if Her Majesty's Indian Military and Naval Forces respectively had throughout such Acts, laws, articles, regulations, and provisions been mentioned or referred to, instead of such Forces of the said Company,

and the pay and expenses of and incident to Her Majesty's Indian Military and Naval Forces shall be defrayed out of the revenues of India

Provision for persons hereafter entering Her Majesty's Indian Forces

57. Provided that it shall be lawful for Her Majesty from time to time by Order in Council to alter or regulate the terms and conditions of service under which persons hereafter entering Her Majesty's Indian Forces shall be commissioned, enlisted, or entered to serve,

and the forms of attestation and of the oath or declaration to be used and taken or made respectively on attesting persons to serve in Her Majesty's Indian Forces shall be such as Her Majesty with regard to the European Forces, and the Governor General of India in Council with regard to the Native Forces, shall from time to time direct.

Provided that every such Order in Council shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be sitting, and, if Parliament be not sitting, then within fourteen days after the next meeting thereof

58. All persons who at the time of the commencement of this Act shall hold any offices, employments, or commissions whatever under the said Company in India shall thenceforth be deemed to hold such offices, employments, and commissions under Her Majesty as if they had been appointed under this Act and shall be paid out of the revenues of India, and the transfer of any person to the service of Her Majesty shall be deemed to be a continuance of his previous service, and shall not prejudice any claims to pension, or any claims on the various annuity funds of the several Presidencies in India, which he might have had if this Act had not been passed

59. All orders, regulations, and directions lawfully given or made before the commencement of this Act by the Court of Directors or by the Commissioners for the Affairs of India shall remain in force, but the same shall, from and after the commencement of this Act, be deemed to be the orders, regulations, and directions under this Act, and take effect and be construed and be subject to alteration or revocation accordingly

Officers, etc.,
in employ of
the Company
at the com-
mencement of
this Act to be
deemed to
hold offices
under Her
Majesty

All orders of
the Court of
Directors or
Board of
Control given
before com-
mencement of
this Act to
remain in
force

60 to 62 [*Rep 55 & 56 Vict, c 19 (S L R)]*

63 In case the person who shall be entitled under any provisional appointment to succeed to the office of Governor General of India upon a vacancy therein, or who shall be appointed absolutely to assume that office, shall be in India (upon or after the happening of the vacancy, or upon or after the receipt of such absolute appointment as the case may require), but shall be absent from Fort William in Bengal, or from the place where the Council of the Governor General of India may then be, and it shall appear to him necessary to exercise the powers of Governor General before he shall have taken his seat in Council, it shall be lawful for him to make known by proclamation his appointment as

Governor
General may
exercise his
powers before
he takes his
seat in Coun-
cil, &c.

shall be valid, subject nevertheless to revocation or alteration by the person who shall have so assumed the said office of Governor General,

and when the office of Governor General is assumed under the foregoing provision, if there be at any time before the Governor General takes his seat in Council no Vice-President of the Council authorized to preside at meetings for making laws and regulations (as provided by section 22¹ of the Government of India Act, 1853), the senior ordinary member of Council then present shall preside therein, with the same powers as if a Vice-President had been appointed and were absent 16 & 17
Vict., c 95

Continuance of existing Enactments.

Existing provisions to be applicable to Secretary of State in Council, etc

64. All Acts and provisions now in force under charter or otherwise concerning India shall, subject to the provisions of this Act, continue in force, and be construed as referring to the Secretary of State in Council in the place of the said Company and the Court of Directors and Court of Proprietors thereof,

and all enactment applicable to the officers and servants of the said Company in India, and to appointments, to office or admissions to service by the said Court of Directors, shall, subject to the provisions of this Act, remain applicable to the officers and servants continued and to the officers and servants appointed or employed in India and to appointments to office and admissions to service under the authority of this Act

Actions and Contracts

Secretary of State in Council may sue and be sued

65 The Secretary of State in Council shall and may sue and be sued as well in India as in England by the name of the Secretary of State in Council as a body corporate,

and all persons and bodies politic shall and may have and take the same suits, remedies, and proceedings, legal and equitable, against the Secretary of State in Council of India as they could have done against the said Company.

and the property and effects hereby vested in Her Majesty for the purposes of the government of India, or acquired for the said purposes, shall be subject and liable to the same judgments and executions as they would while vested in the said Company have been liable to in respect of debts and liabilities lawfully contracted and incurred by the said Company,

66 [*Rep 41 & 42 Vict, c 79 (S L R)*]

Treaties shall be binding on Her Majesty, and contracts, etc., of

67 All treaties made by the said Company shall be binding on Her Majesty, and all contracts, covenants, liabilities, and engagements of the said Company made, incurred, or entered into before the commence-

¹ S 22, 16 & 17 Vict, c 95, was repealed by 24 & 25 Vict, c 67, s 2—see s 15 of that Act

ment of this Act may be enforced by and against the Secretary of State in Council in like manner and in the same courts as they might have been by and against the said Company if this Act had not been passed Company may be enforced.

68 Neither the Secretary of State nor any member of the Council shall be personally liable in respect of any such contract, covenant, or engagement of the said Company as aforesaid, or in respect of any contract entered into under the authority of this Act, or other liability of the said Secretary of State or Secretary of State in Council in their official capacity, but all such liabilities, and all costs and damages in respect thereof, shall be satisfied and paid out of the revenues of India Members of Council not personally liable

69 and 70 [*Rep 41 & 42 Vict, c 79 (S L R)]*

71 * * * *1 the said Company shall not, after the passing of this Act, be liable in respect of any claim, demand, or liability which has arisen or may hereafter arise out of any treaty, covenant, contract, grant, engagement, or fiduciary obligation made, incurred, or entered into by the said Company before the passing of this Act, whether the said Company would, but for this Act, have been bound to satisfy such claim, demand, or liability out of the revenues of India, or in any other manner whatsoever Company not to be liable in respect of any claim arising out of any covenant, etc, made before the passing of this Act.

72 and 73 [*Rep 41 & 42 Vict, c 79 (S L R)]*

74 [*Rep 55 & 56 Vict, c 19 (S L R)]*

75 [*Rep 41 & 42 Vict, c 79 (S L R)]*

THE EAST INDIA LOAN ACT, 1859

(22 Vict, c. 11)

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the service of the Government of India

[8th April, 1859]

[*Preamble and enacting words Rep 55 & 56 Vict, c 19 (S L R)]*

1. It shall be lawful for the Secretary of State in Council of India, at any time or times before the thirtieth day of April one thousand eight hundred and sixty, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom for the service of the government of India any sum or sums of money exceeding in the whole seven millions as herein-after provided *Secretary of State in Council of India may raise any sum not exceeding seven millions*

¹ Words repealed by 41 & 42 Vict, c. 79 (S L R), have been omitted

Money may be raised on bonds under the hands of three members of the Council of India countersigned by Secretary of State, or Under Secretary

Money not borrowed in bond may be raised on debentures

Payment of principal and interest on debentures

Debentures transferable by delivery or deed

The whole amount so secured by bonds, etc., not to exceed seven millions

Bonds, etc., to be charged on revenues of India

Application of s 2 & 6 Will

2. It shall be lawful for the said Secretary of State in Council from time to time to borrow upon bonds to be issued under the hands of three members of the Council of India, and countersigned by the Secretary of State for India, or one of his Under Secretaries or his Assistant Under Secretary, all or any part of the money hereby authorized to be raised as aforesaid, such bonds to be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit

3. For raising all or any part of the money by this Act authorized to be raised which may not be borrowed on bond as aforesaid, it shall be lawful for the said Secretary of State in Council to issue from time to time debentures under the hands of three members of the said Council, and countersigned as aforesaid for such respective amounts, and at such rate or rates of interest, as the said Secretary of State in Council may think fit; such debentures to be issued at or for such prices and on such terms as may be determined by the said Secretary of State in Council

4 All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively, and the interest on all such debentures shall be payable half-yearly on such days as shall be mentioned therein * * * *¹

5. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal moneys secured thereby, and all interest due and accruing thereon, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed

6 The whole amount of principal moneys to be secured by bonds or debentures, or by bonds and debentures, to be issued under this Act, shall not exceed seven millions,

and no money shall be raised or secured under the authority of this Act after the said thirtieth day of April one thousand eight hundred and sixty, or, if Parliament be then sitting, after the end of the then session of Parliament * * * *¹

7 [Rep as to U K 38 & 39 Vict, c 66 (S L R) Omitted as being probably obsolete²]

8. All bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories

9 The provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter

¹ Rest of the section was repealed (U K.) by 38 & 39 Vict, c 66 (S L R)

² See footnote to s 7 of the East India Loan Act, 1859

sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto

4, c 64, s 4,
to bonds and
debentures
under this
Act

10. [*Rep 55 & 56 Vict, c 19 (S L R).*]

11. [*Rep 37 & 38 Vict, c 3, s 15*]

12 This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of the passing thereof

Saving of
existing
powers

THE EVIDENCE BY COMMISSION ACT, 1859

(22 Vict, c. 20.)

An Act to provide for taking Evidence in Suits and Proceedings pending before Tribunals in Her Majesty's Dominions in Places out of the Jurisdiction of such Tribunals

[19th April, 1859]

[*Preamble and enacting words Rep (U K) 55 & 56 Vict, c 19 (S L R)*]

1 Where upon an application for the purpose it is made to appear to any court or judge having authority under this Act that any court or tribunal of competent jurisdiction in Her Majesty's dominions has duly authorized, by commission, order, or other process, the obtaining the testimony in or in relation to any action, suit, or proceeding pending in or before such court or tribunal of any witness or witnesses out of the jurisdiction of such court or tribunal, and within the jurisdiction of such first-mentioned court, or of the court to which such judge belongs, or of such judge, it shall be lawful for such court or judge to order the examination before the person or persons appointed, and in manner and form directed by such commission, order, or other process as aforesaid, of such witness or witnesses accordingly,

Examination
of witnesses
out of the
jurisdiction
of any tribu-
nal in Her
Majesty's
possessions in
relation to
any suit
pending
before
such tribunal

and it shall be lawful for the said court or judge by the same order, or for such court or judge, or any other judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order for the purpose of being examined, or

the production of any writing or other documents to be mentioned in such order, and to give all such directions as to the time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just,

and any such order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made by such court or judge in a cause depending in such court or before such judge

Persons giving false evidence, guilty of perjury

2 Every person examined as a witness under any such commission, order, or other process as aforesaid, who shall upon such examination wilfully and corruptly give any false evidence, shall be deemed and taken to be guilty of perjury

Payment of expenses

3. Provided always that every person whose attendance shall be so ordered shall be entitled to the like conduct money, and payment for expenses and loss of time, as upon attendance at a trial

Power to persons to refuse to answer questions or to produce documents

4. Provided also, that every person examined under any such commission, order, or other process as aforesaid, shall have the like right to refuse to answer questions tending to criminate himself, and other questions which a witness in any cause pending in the court by which, or by a judge whereof, or before the judge by whom the order for examination was made, would be entitled to, and that no person shall be compelled to produce under any such order as aforesaid any writing or other document that he would not be compellable to produce at a trial of such a cause

That courts and judges to have authority under this Act

5 Her Majesty's Superior Courts of Common Law at Westminster and in Dublin respectively, the Court of Session in Scotland, and any Supreme Court in any of Her Majesty's colonies or possessions abroad, and any judge of any such court, and every judge in any such colony or possession who, by any order of Her Majesty in Council, may be appointed for this purpose, shall respectively be courts and judges having authority under this Act

Power to frame rules, etc., for giving effect to provisions of this Act

6 It shall be lawful for the Lord Chancellor of Great Britain, with the assistance of two of the judges of the Courts of Common Law at Westminster, so far as relates to England, and for the Lord Chancellor of Ireland, with the assistance of two of the judges of the Courts of Common Law at Dublin, so far as relates to Ireland, and for two of the judges of the Court of Session so far as relates to Scotland, and for the chief or only judge of the Supreme Court in any of Her Majesty's colonies or possessions abroad so far as relates to such colony or possession, to frame such rules and orders as shall be necessary or proper for giving effect to the provisions of this Act, and regulating the procedure under the same ¹

¹ Ext. by 48 & 49 Vict., c. 74, s. 5.

THE EAST INDIA LOAN (No 2) ACT, 1859

(22 & 23 Vict., c. 39.)

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India

[13th August, 1859]

[Preamble reciting 21 & 22 Vict., c. 3, 22 Vict., c. 11, and enacting words Rep (U K) 55 & 56 Vict., c. 19 (S L R)]

1. It shall be lawful for the Secretary of State in Council of India, at any time or times before the thirtieth day of April one thousand eight hundred and sixty, or if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole five millions, Secretary of State in Council of India may raise any sum not exceeding five millions

and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others

2 All bonds issued under the authority of this Act, or hereafter issued under the authority of either of the recited Acts, may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State for India, or one of his Under Secretaries, or his Assistant Under Secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit How bonds may be issued

3 All debentures issued under the authority of this Act, or hereafter issued under the authority of either of the recited Acts may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts and at such rate or rates of interest as the Secretary of State in Council may think fit and shall be issued at or for such prices and on such terms as may be determined by the How debentures may be issued

Coupons for interest to pass by delivery

Provided that the coupons for interest annexed to any debenture issued under the authority of this Act or under the authority of either of the recited Acts shall pass by delivery

Payment of interest and principal of capital stock and annuities

6. Any capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate per cent. per annum, as the Secretary of State in Council may think fit,

and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock,

and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities

Transfer books of such capital stock and annuities to be kept

7. In case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys, thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses;

and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof,

and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law,

and no stamp duties whatsoever shall be charged on the said transfers or any of them

Annuities to be personal estate.

8. All annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of London or otherwise

The whole amount charged on revenues of India not to exceed five millions, etc

9. The whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed five millions,

and no money shall be raised or secured under the authority of this Act after the said thirtieth day of April one thousand eight hundred and sixty, or, if Parliament be then sitting, after the end of the then session of Parliament, save for or upon the repayment of principal moneys previously secured under this Act, as hereinafter provided

10. Upon or for the repayment of any principal money secured under the authority of this Act or under the authority of either of the recited Acts, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act or either of the recited Acts may require to be repaid,

Power to raise money for payment of principal money

but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid

11. All bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories

Bonds, etc, to be charged on revenues of India.

12. The provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act as if such provisions were here repeated and re-enacted with reference thereto

Application of 5 & 6 Will 4, c 64, s. 4, to bonds, etc, under this Act

13 [Rep as to U K 55 & 56 Vict, c 19 (S L R) Omitted as being obsolete]

14 [Rep 37 & 38 Vict, c 3, s 15]

15 This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof

Saving power of Secretary of State in Council.

THE GOVERNMENT OF INDIA ACT, 1859 ¹

(22 & 23 Vict, c 41.)

An Act to amend the Act for the better Government of India

[13th August, 1859]

[Preamble reciting 21 & 22 Vict, c 106, and doubts as to s 40 of that Act, and enacting words Rep (U K) 55 & 56 Vict, c 19 (S L R)]

1 The Governor General of India in Council, the Governor in Council of Fort St George, the Governor in Council of Bombay, the Lieutenant Governor of the North-Western Provinces now under the Presidency of Fort William in Bengal, respectively, or any officer for

Governor General, etc, may sell, purchase, and enter into contracts

¹ The provisions of this statute cannot be affected by legislation in India—see 24 & 25 Vict, c 67, s 22

the time being intrusted with the government, charge, or care of any presidency, province, or district in India, subject to such provisions or restrictions as the Secretary of State in Council, with the concurrence of a majority of votes at a meeting, shall from time to time prescribe, are hereby respectively empowered to sell and dispose of all real and personal estate whatsoever in India for the time being vested in Her Majesty under the said Act, within the limits of their respective governments, provinces, or districts, or to raise money on any such real estate by way of mortgage, and to make proper assurances for that purpose, and to purchase and acquire any land or hereditaments, or any interest therein, stores, goods, chattels, and other property in India, within the said respective limits, and to enter into any contracts whatsoever, within the said respective limits, for the purposes of the said Act,

and all property so acquired shall vest in Her Majesty for the service of the government of India

Mode of
executing
deeds, etc.,
in India.

2 The Secretary of State in Council may be named as a party to any such deed, contract, or other instrument,

and it shall be sufficient to use the designation of Secretary of State in Council in such deed, contract, or other instrument,

and the same may be expressed to be executed on behalf of the Secretary of State in Council by or by order of the Governor General in Council, Governor in Council, Lieutenant Governor of the North-Western Provinces or other officer intrusted as aforesaid, but may be executed in other respects in like manner as other instruments executed by or on behalf of him or them respectively in his or their official capacity, and may be enforced by or against the Secretary of State in Council for the time being,

Secretary of
State, etc.,
not to be per-
sonally
liable

and neither the Secretary of State nor any member of the Council nor any person executing such deed, contract, or other instrument, shall be personally liable in respect thereof, and all liabilities, costs, and damages in respect thereof shall be satisfied and paid out of the revenues of India

Mode of sign-
ing drafts or
orders on
Bank of
England.

3 Notwithstanding anything contained in the said Act, it shall be lawful for the 1* * * * Bank of England to pay out all or any of the moneys paid to the credit of the account opened under the said Act by the 1* * * * Bank of England intituled "The Account of the Secretary of State in Council of India," upon any drafts or orders signed by the Accountant General on the establishment of the Secretary of State in Council, or by either of the two senior clerks in the department of the said Accountant General, and countersigned in such

¹ The words "Governor and Company of the" were repealed (U K) by 55 & 56 Vict., c. 19 (S L R)

manner as the Secretary of State for India in Council shall from time to time order or establish,

and any draft or order signed and countersigned as aforesaid or in manner directed by the said Act shall effectually discharge the Bank of England for all moneys paid upon the same

4 If before the passing of this Act any contracts or assurances shall have been entered into or made on behalf of the Secretary of State in Council, or the Government of India, by any person in India who, previously to the commencement of the said Act, would have been authorized to enter into and make the same on behalf of the East India Company, such contracts or assurances shall have the same validity in favour of and against the Secretary of State in Council, as they would have had in favour of and against the said Company if made on behalf of the said Company and if the said Act had not been passed,

Validity of contracts, etc., entered into before the passing of this Act.

but neither the Secretary of State nor any member of the Council shall be personally liable in respect of any such contracts or assurances, and all liabilities, costs, and damages in respect thereof shall be satisfied and paid out of the revenues of India

5 All contracts purporting to be entered into by the Secretary of State in Council which shall have been previous to the passing of this Act made under the hands and seals or hands of three or more members of Council shall be as valid and effectual, to all intents and purposes whatsoever, as the same would have been if section forty of the said Act had contained an express provision that the contracts to be entered into by the Secretary of State in Council pursuant to that Act might be so made,

Mode of executing contracts

and from and after the passing of this Act all contracts in writing entered into by the Secretary of State in Council with the concurrence of a majority of votes at a meeting, may be expressed to be made by the Secretary of State in Council under that designation, and, if such as, if made between private persons, would be by law required to be under seal, may be made, varied, or discharged under the hands and seals of two members of the Council, or if such as, if made between private persons, would be by law required to be signed by the parties to be charged therewith, may be made, varied or discharged under the hands of two members of the Council,

and the benefit and liability of such contracts shall pass to the Secretary of State in Council for the time being

6 All actions, suits and proceedings in any court of justice in respect of any of the matters aforesaid shall and may be carried on, prosecuted, or defended in the name of the Secretary of State for India in Council

Actions to be carried on in name of Secretary of State for India in Council.

THE BRITISH LAW ASCERTAINMENT ACT, 1859

(22 & 23 Vict., c. 63.)

An Act to afford Facilities for the more certain Ascertainment of the Law administered in one Part of Her Majesty's Dominions when pleaded in the Courts of another Part thereof

[13th August, 1859]

[*Preamble and enacting words Rep (U K) 55 & 56 Vict, c. 19 (S. L R)*]

Courts in one part of Her Majesty's dominions may remit a case for the opinion in law of a court in any other part thereof

1. If in any action depending in any court within Her Majesty's dominions it shall be the opinion of such court that it is necessary or expedient for the proper disposal of such action to ascertain the law applicable to the facts of the case as administered in any other part of Her Majesty's dominions on any point on which the law of such other part of Her Majesty's dominions is different from that in which the court is situate, it shall be competent to the court in which such action may depend to direct a case to be prepared setting forth the facts, as these may be ascertained by verdict of a jury or other mode competent or may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the court for that purpose in the event of the parties not agreeing,

and upon such case being approved of by such court or a judge thereof they shall settle the questions of law arising out of the same on which they desire to have the opinion of another court, and shall pronounce an order remitting the same, together with the case, to the court in such other part of Her Majesty's dominions, being one of the superior courts thereof, whose opinion is desired upon the law administered by them as applicable to the facts set forth in such case and desiring them to pronounce their opinion on the questions submitted to them in the terms of the Act,

and it shall be competent to any of the parties to the action to present a petition to the court whose opinion is to be obtained praying such last-mentioned court to hear parties or their counsel and to pronounce their opinion thereon in terms of this Act, or to pronounce their opinion without hearing parties or counsel,

and the court to which such petition shall be presented shall, if they think fit, appoint an early day for hearing parties or their counsel on such case, and shall thereafter pronounce their opinion upon the questions of law as administered by them which are submitted to them by the court,

and in order to their pronouncing such opinion they shall be entitled to take such further procedure thereupon as to them shall seem proper

2 Upon such opinion being pronounced, a copy thereof, certified by an officer of such court, shall be given to each of the parties to the action

by whom the same shall be required, and shall be deemed and held to contain a correct record of such opinion opinion to be given

3 It shall be competent to any of the parties to the action, after having obtained such certified copy of such opinion, to lodge the same with an officer of the court in which the action may be depending, who may have the official charge thereof, together with a notice of motion setting forth that the party will, on a certain day named in such notice, move the court to apply the opinion contained in such certified copy thereof to the facts set forth in the case herein-before specified, Opinion to be applied by the court making the remit, etc

and the said court shall thereupon apply such opinion to such facts, in the same manner as if the same had been pronounced by such court itself upon a case reserved for opinion of the court, or upon special verdict of a jury,

or the said last-mentioned court shall, if it think fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as evidence, or conclusive evidence, as the court may think fit, of the foreign law therein stated, and the said opinion shall be so submitted to the jury

4. In the event of an appeal to Her Majesty in Council or to the House of Lords in any such action, it shall be competent to bring under the review of Her Majesty in Council or of the House of Lords the opinion pronounced as aforesaid by any court whose judgments are reviewable by Her Majesty in Council or by the House of Lords, Her Majesty in Council or House of Lords on appeal may adopt or reject opinion

and Her Majesty in Council or that House may respectively adopt or reject such opinion of any court whose judgments are respectively reviewable by them, as the same shall appear to them as to be well founded or not in law

5. In the construction of this Act, the word "action" shall include every judicial proceeding instituted in any court, civil, criminal, or ecclesiastical, Interpretation of terms

and the words "Superior Courts" shall include,

in England, the Superior Courts of Law at Westminster the Lord Chancellor, the Lords Justices, the Master of the Rolls or any Vice-Chancellor, the Judge of the Court of Admiralty, the Judge Ordinary of the Court for Divorce and Matrimonial Causes, and the Judge of the Court of Probate,

in Scotland, the High Court of Justiciary, and the Court of Session acting by either of its divisions;

in Ireland, the Superior Courts of Law at Dublin, the Master of the Rolls and the Judge of the Admiralty Court;

and in any other part of Her Majesty's dominions the Superior Courts of Law or Equity therein

THE INDIAN SECURITIES ACT, 1860

(23 & 24 Vict., c. 5.)

*An Act to regulate Probate and Administration with respect to certain Indian Government Securities, * * * ^{*1} and to extend the Operation of the Act of the Twenty-second and Twenty-third Years of Victoria, Chapter Thirty-nine, to Indian Bonds*

[23rd March, 1860]

[*Preamble reciting 5 & 6 Will 4, c 64, s 5, 21 & 22 Vict, c 106, s 67, 22 & 23 Vict, c 39, and enacting words Rep (U K) 55 & 56 Vict, c 19 (S L R)]*

Indian Gov-
ernment
notes on
which interest
is payable in
London, etc,
to be deemed
bonâ nota-
bilia in
England, etc

1 All Indian Government promissory notes and certificates issued or stock created in lieu thereof, being assets of a deceased person, the interest whereon or in respect of which shall be payable in London by drafts payable in India, and which at the decease of the owner thereof shall have been registered in the books of the Secretary of State in Council, in London, or in the books of the Governor and Company of the Bank of England, or shall have been enfaced in India for the purpose of being so registered before the decease of the owner thereof, and all Indian Government promissory notes issued with coupons attached, which, under such regulations and conditions as may be determined from time to time by the Secretary of State in Council, shall be so registered, and all certificates issued or stock created in lieu thereof, shall be deemed and taken to be personal estate and bonâ notabilia of such deceased person in England.

and probate or letters of administration in England, or confirmation granted in Scotland, and sealed with the seal of the principal Court of Probate in England, in pursuance of the provisions of the "Confirmation and Probate Act, 1858," shall be valid and sufficient to constitute the persons therein named the legal personal representatives of the deceased with respect to such notes and moneys as aforesaid ^{21 & 22 Vict, c}

2. [*Repeal of 5 & 6 Will 4, c 64, s 5, as to stamp duty on transfers Rep (U K) 55 & 56 Vict, c 19 (S L R)]*

Transfers of
territorial
debt, etc, not
chargeable
with stamp
duty

No transfer of any part * * * ^{*2} of Indian Government loans registered and transferable in the books of the Secretary of State in Council in London, or in the books of * * * ^{*3} the Bank of England shall be chargeable with any stamp duty

Power to
raise money
under 22 & 23
Vict, c 39,
extended to

3 Upon or for the repayment of any principal money secured by the said bonds, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes authorized by the said recited Act passed in the session holden in the twenty-second and twenty-third

¹ Words repealed (U K) by 55 & 56 Vict, c 19 (S L R), have been omitted

² The words "of the said territorial debt or" were repealed (U K) by 55 & 56 Vict, c 19 (S L R)

³ The words "the Governor and Company of" were repealed (U K) by 55 & 56 Vict, c 19 (S L R)

years of Her present Majesty, chapter thirty nine, all or any part of the principal money so repaid or to be repaid, and so, from time to time as all or any part of the principal money secured by the said bonds may have been repaid or require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money repaid or required to be repaid, borrowing for repayment of East India bonds

and the provisions of the said recited Act with reference to the creation of the capital stock and annuities created under the authority of the said Act and with reference to the issue, payment, and transfer of the capital stock, annuities, bonds, and debentures issued under the authority of the said Act shall be held to be in force and to apply to the creation issue, payment and transfer of the capital stock, annuities, bonds, and debentures created and issued under the authority of this Act

THE ADMIRALTY JURISDICTION (INDIA) ACT, 1860

(23 & 24 Vict., c 88)

An Act to extend certain Provisions for Admiralty Jurisdiction in the Colonies to Her Majesty's Territories in India

[13th August, 1860]

[Preamble reciting 12 & 13 Vict , c 96, s 5, and enacting words Rep (U K) 55 & 56 Vict , c 19 (S L R)]

1 * * * *¹ for the purposes of the said Act the word "colony " therein shall include and apply to every part and place heretofore under the government of the East India Company, or which may be under the government of Her Majesty in India, and all the provisions of the said Act shall be construed and take effect accordingly The word "colony " in the recited Act to include India

2 Provided always that where any person within any place in India is charged with the commission of any offence in respect of which jurisdiction is given by the said Act, or where any person charged with the commission of any such offence is brought for trial under the said Act to any place in India, if at any time before his trial he make it appear to the court exercising criminal jurisdiction in the place where he is so charged or brought for trial, that in case the offence charged had been committed in such place he could have been tried only in the Supreme Court of one of the three Presidencies in India, and claim to be tried by such a Supreme Court accordingly, the said court exercising criminal jurisdiction as aforesaid shall certify the fact and claim to the governor of such place or chief local authority thereof, Proceedings in case of persons entitled to be tried by the Supreme Court of a Presidency

and such governor or chief local authority thereupon shall order and cause the person charged to be sent in custody to such one of the Presidencies as such governor shall think fit for trial before the Supreme Court of such Presidency ,

¹ Words repealed by 38 & 39 Vict , c 66 (S L R) , have been omitted

and the said Supreme Court and all public officers and other persons in the Presidency shall have the same jurisdiction and authorities and proceed in the same manner in relation to the person charged with such offence as if the same had been committed or originally charged to have been committed within the limits of the ordinary jurisdiction of such Supreme Court

THE SUPERANNUATION ACT, 1860

(23 & 24 Vict., c. 89.)

An Act to extend in certain cases the provisions of the Superannuation Act, 1859

[13th August, 1860]

[*Preamble and enacting words* Rep (U K) 55 & 56 Vict., c. 19 (S L R)]

Pension of
person trans-
ferred from
or to India
Office

1. Whenever any person shall have been transferred from any situation or employment in the permanent Civil Service entitling him to superannuation allowance under the Superannuation Act, 1859, to any situation or employment in the office of the Secretary of State for India entitling him to superannuation allowance under section eighteen of the Government of India Act, 1858, or whenever any person shall have been transferred from any such last-mentioned to any such first-mentioned situation or employment, such person shall be entitled to superannuation allowance calculated on his whole service according to the provisions of the Superannuation Act aforesaid, ^{21 & 22 Vict., c. 1}

and such allowance shall be paid out of the revenues of India and out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, or out of monies voted by Parliament in such portions respectively as shall have been earned by such person in the respective services aforesaid

THE EUROPEAN FORCES (INDIA) ACT, 1860

(23 & 24 Vict., c. 100.)

An Act to repeal so much of the Act of the twenty-second and twenty-third Victoria, Chapter Twenty-seven, and of certain other Acts, as authorizes the Secretary of State in Council to give directions for raising European forces for the Indian Army of Her Majesty

[20th August, 1860]

Repeal of
22 & 23 Vict,
c. 27, etc., in
part,

WHEREAS it is not expedient that a separate European force should be continued for the local service of Her Majesty in India * * *

¹ Enacting words repealed (U K), 55 & 56 Vict., c. 19 (S L R)

1. So much of * * * * *¹ any former Act or Acts of Parliament, as renders it lawful for the Secretary of State in Council from time to time to give such directions as he may think fit for raising such number of European forces as he may judge necessary for the Indian Army of Her Majesty, is hereby repealed

Provided always that the same or equal provision for the sons of persons who have served in India, and the advantages as to pay, pensions, allowances, privileges, promotion, and otherwise secured to the military forces of the East India Company by the Act of the twenty-first and twenty-second years of the Queen, chapter one hundred and six, sections thirty-five, fifty-six, and fifty-eight, respectively, shall be maintained in any plan for the reorganization of the Indian Army, anything in this Act contained notwithstanding

Provision for sons of persons who have served in India and advantages as to pay, etc., to be maintained

THE EAST INDIA STOCK ACT, 1860.

(23 & 24 Vict., c. 102.)

An Act to provide for the Management of East India Stock and of the Debts and Obligations of the Government of India, at and by the Bank of England
[20th August, 1860]

[Preamble]

1 to 5. [*Rep as to U K, 38 & 39 Vict., c. 66 (S L R) Omitted*
as being inapplicable to India]

6 The Secretary of State for India in Council shall be and he is hereby authorized from time to time to make such arrangements with * * * * * the Bank of England as shall be deemed expedient for the payment at the Bank of England of the debts and obligations contracted by or on behalf of the East India Company and by or on behalf of the Secretary of State for India in Council, both in India and Great Britain, and of the interest to accrue thereon, and for the creation and registration and for the transfer of, and the payment of interest on, any stock into which any such obligations may be convertible, and for the appointment of one or more person or persons for the purpose of drawing bills, on behalf of the Secretary of State in Council of India, upon the Governor General, and the Governors of the several Presidencies of India respectively, and otherwise in relation to the management of such debts and obligations

Secretary of State for India in Council to make such arrangements as shall be deemed expedient with the Bank of England for payment of the debts and obligations of the Government of India, and the interest thereon, etc

7. It shall be lawful for the Secretary of State for India in Council from time to time to open at the Bank of England such account or

Secretary of State for India in

¹ The words "the Act of Parliament of the twenty second and twenty third of Her Majesty, chapter twenty seven, intituled 'An Act to repeal the thirty-first section of sixteen and seventeen Victoria, chapter ninety five, and to alter the limit of the number of European troops to be maintained for local service in India,' and of " were repealed (U K.) by 61 & 62 Vict., c. 22 (S L R)

² The words "the Governor and Company of " were repealed (U K.) by 55 & 56 Vict., c. 19 (S L R)

304 *The Admiralty Offences (Colonial) Act, [23 & 24 Vict., c. 122.*
1860.

The East India Loan Act, 1860 [23 & 24 Vict., c. 130.

Council to
open accounts
at Bank of
England for
payment by
current
demands

accounts of the payment of current demand as he may deem expedient; such account or accounts to be kept in such name or names, and drawn upon by such person or persons, and in such manner, as may from time to time be directed by the said Secretary of State in Council, which accounts shall be deemed public accounts

THE ADMIRALTY OFFENCES (COLONIAL) ACT, 1860

(23 & 24 Vict., c. 122.)

An Act to enable the Legislature of Her Majesty's Possessions abroad to make Enactments similar to the enactment of the Act Ninth George the Fourth, Chapter Thirty-one, Section Eight.

[28th August, 1860]

[Preamble reciting 9 Geo 4, c. 31, s. 8, and enacting words Rep (U K) 55 & 56 Vict, c. 19 (S L R)]

Legislatures
of possessions
abroad may
legislate for
trial, etc., of
offences com-
mitted in
such posses-
sions, where
persons in-
jured die out
of the limits
thereof

1. It shall be lawful for the legislature of any of Her Majesty's possessions abroad to enact by any law or ordinance, to be by them made in the usual manner, that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place within the limits of such possession, shall die of such stroke, poisoning, or hurt upon the sea or at any place out of the limits of such possession, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in the possession within the limits of which such stroke, poisoning, or hurt shall happen, in the same manner in all respects as if such offence had been wholly committed within the limits of such possession,

or such legislature may enact, by any such law or ordinance to be made as aforesaid, to the like effect

THE EAST INDIA LOAN ACT, 1860.

(23 & 24 Vict, c. 130.)

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India

[28th August, 1860]

[Preamble and enacting words Rep 55 & 56 Vict, c. 19 (S L R)]

Secretary of
State in
Council of

1. It shall be lawful for the Secretary of State in Council of India, at any time or times before the thirtieth day of April one thousand

eight hundred and sixty-one, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom for the service of the Government of India, any sum or sums of money not exceeding in the whole three millions and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest or annuities, or partly by one of such mode and partly by another or others

India may raise any sum not exceeding three millions

2 All bonds issued under the authority of this Act may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State for India or one of his Under Secretaries, or his Assistant Under Secretary, and shall be for such respective amounts payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit

Issue of bonds under this Act

3 All debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council

Issue of debentures under this Act

4 All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively, and the interest of all such debentures shall be paid half-yearly on such days as shall be mentioned therein, and the principal monies and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England

Payment of principal and interest on debentures

5 All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest monies secured thereby, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed

Debentures to be transferable by delivery or deed

Provided that the coupons for interest annexed to any debenture issued under the authority of this Act shall pass by delivery

Coupons for interest to pass by delivery

6 Any capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate per centum per annum, as the Secretary of State in Council may think fit,

Issue, etc., of capital stock and annuities

and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council,

and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock,

and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities

Transfer
books of such
capital stock
and an-
nuities to be
kept.

7. In case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two, or more credible witnesses,

and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof,

and no other mode of assigning or transferring the said capital stock or the said annuities or any part thereof respectively, or any interest therein respectively, shall be good and available in law,

and no stamp duties whatsoever shall be charged on the said transfers or any of them

Annuities
under this
Act to be
deemed per-
sonal estate

8 All annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of London, or otherwise

The whole
amount
charged on
the revenues
of India
under this
Act not to
exceed three
millions, etc

9. The whole amount of the principal monies to be charged on the revenues of India under this Act shall not exceed three millions, and no money shall be raised or secured under the authority of this Act after the said thirtieth day of April one thousand eight hundred and sixty-one, or if Parliament be then sitting, after the end of the then session of Parliament, save for or upon the repayment of principal monies previously secured under this Act as herein-after provided

Power to
raise money
for repay-
ment of
principal.

10. Upon or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid

Bonds, etc, to
be charged on
the revenues
of India

11. All bonds and debentures to be issued under this Act, and the principal monies and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be

issued under this Act, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories

12 The provisions contained in section four of the Act of the session 5 & 6 Will. 4, holden in the fifth and sixth years of King William the Fourth, chapter c 64, s 4, as sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto

13. [*Rep 55 & 56 Vict , c 19 (S L R)*]

14 [*Rep 37 & 38 Vict , c 3, s 15*]

15. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof

Saving of existing powers of borrowing.

THE BANK OF ENGLAND ACT, 1861

(24 & 25 Vict , c. 3)

An Act to make further Provision respecting certain payments to and from the Bank of England, and to increase the facilities for the Transfer of Stocks and Annuities, and for other Purposes

[22nd March, 1861]

[*Preamble and enacting words Rep (U K) 55 & 56 Vict , c 19 (S L R)*]

[*Whole Act, except ss 4, 5, 9, 10, rep 55 & 56 Vict , c 48, s 8, ss 4, 5, 9 omitted as inapplicable to India*]

10 And whereas the said Governor and Company have also heretofore closed, in the manner and for the purposes herein-before mentioned, the books for transfer of certain stocks created by the Secretary of State in Council of India, under the authority of certain Acts of Parliament empowering him in that behalf, and it is desirable that the provisions herein-before contained shall extend to the said last-mentioned stocks likewise

Be it enacted, that it shall be lawful for the said Governor and Company in like manner to close the books for the transfer of the said stocks so created by the Secretary of State in Council for India as aforesaid respectively, on any day in the month preceding that in which the dividends thereon respectively shall by law be due, and thereupon the rights of the transferor and transferee respectively to such dividends shall be

Provision as to closing books for transfer of East India stocks.

the same as is herein-before provided respecting the transferor and transferee of dividends of other capital stocks transferable at the Bank of England in the like case

Provided that the period for which such books of transfer shall be closed shall not exceed fifteen days

THE FOREIGN LAW ASCERTAINMENT ACT, 1861

(24 & 25 Vict, c 11)

An Act to afford Facilities for the better Ascertainment of the Law of Foreign Countries when pleaded in Courts within Her Majesty's Dominions

[17th May, 1861]

[Preamble reciting 22 & 23 Vict, c 63, and enacting words Rep (U K) 55 & 56 Vict, c 19 (S L R)]

Superior
Courts within
Her Majesty's
dominions
may remit a
case, with
queries, to a
court of any
foreign state
with which
Her Majesty
have
a con
in for
pose,
ascertain-
ing the law of
such state as
to the facts in
question

1 If, in any action depending in any of the Superior Courts within Her Majesty's dominions, it shall be the opinion of such court that it is necessary or expedient, for the disposal of such action, to ascertain the law applicable to the facts of the case as administered in any foreign state or country with the Government of which Her Majesty shall have entered into such convention as aforesaid, it shall be competent to the court in which such action may depend to direct a case to be prepared setting forth the facts as these may be ascertained by verdict of jury or other mode competent, or as may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the court for that purpose in the event of the parties not agreeing,

and upon such case being approved of by such court or a judge thereof, such court or judge shall settle the questions of law arising out of the same on which they desire to have the opinion of another court and shall pronounce an order remitting the same together with the case to such superior court in such foreign state or country as shall be agreed upon in said convention, whose opinion is desired upon the law administered by such foreign court as applicable to the facts set forth in such case, and requesting them to pronounce their opinion on the questions submitted to them,

and upon such opinion being pronounced, a copy thereof, certified by an officer of such court, shall be deemed and held to contain a correct record of such opinion

Copy of
opinion to be
lodged in
court in
which action
depends

2 It shall be competent to any of the parties to the action, after having obtained such certified copy of such opinion, to lodge the same with the officer of the court within Her Majesty's dominions in which the action may be depending who may have the official charge thereof, together with a notice of motion setting forth that the party will, on a certain day named in such notice, move the court to apply the opinion

contained in such certified copy thereof to the facts set forth in the case herein-before specified,

and the said court shall thereupon, if it shall see fit, apply such opinion to such facts, in the same manner as if the same had been pronounced by such court itself upon a case reserved for opinion of the court, or upon special verdict of a jury, Court to apply opinion to the facts set forth in the case, etc

or the said last-mentioned court shall, if it think fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as conclusive evidence of the foreign law therein stated, and the said opinion shall be so submitted to the jury

Provided always, that if after having obtained such certified copy the court shall not be satisfied that the facts had been properly understood by the foreign court to which the case was remitted, or shall on any ground whatsoever be doubtful whether the opinion so certified does correctly represent the foreign law as regards the facts to which it is to be applied, it shall be lawful for such court to remit the said case, either with or without alterations or amendments, to the same or to any other such superior court in such foreign state as aforesaid, and so from time to time as may be necessary or expedient Remitter of case back to foreign court

3 If in any action depending in any court of a foreign country or state with whose Government Her Majesty shall have entered into a convention as above set forth, such court shall deem it expedient to ascertain the law applicable to the facts of the case as administered in any part of Her Majesty's dominions, and if the foreign court in which such action may depend shall remit to the court in Her Majesty's dominions whose opinion is desired a case setting forth the facts and the questions of law arising out of the same on which they desire to have the opinion of a court within Her Majesty's dominions, it shall be competent to any of the parties to the action to present a petition to such last-mentioned court, whose opinion is to be obtained, praying such court to hear parties or their counsel, and to pronounce their opinion thereon in terms of this Act, or to pronounce their opinion without hearing parties or counsel, Courts in Her Majesty's dominions shall pronounce opinion on case remitted by a foreign court

and the court to which such petition shall be presented shall consider the same, and, if they think fit, shall appoint an early day for hearing parties or their counsel on such case, and shall pronounce their opinion upon the questions of law as administered by them which are submitted to them by the foreign court,

and in order to their pronouncing such opinion they shall be entitled to take such further procedure thereupon as to them shall seem proper,

and upon such opinion being pronounced a copy thereof, certified by an officer of such court, shall be given to each of the parties to the action by whom the same shall be required

Interpreta-
tion of terms

4. In the construction of this Act the word "action" shall include every judicial proceeding instituted in any court, civil, criminal, or ecclesiastical,

and the words "Superior Courts" shall include,

in England, the Superior Courts of Law at Westminster, the Lord Chancellor, the Lords Justices, the Master of the Rolls, or any Vice-Chancellor, the judge of the Court of Admiralty, the judge ordinary of the Court for Divorce and Matrimonial Causes, and the judge of the Court of Probate,

in Scotland, the High Court of Justiciary, and the Court of Session, acting by either of its divisions,

in Ireland, the Superior Courts of Law at Dublin, the Master of the Rolls and the judge of the Admiralty Court, and

in any other part of Her Majesty's dominions, the Superior Courts of Law or Equity therein, and

in a foreign country or state, any superior court or courts which shall be set forth in any such convention between Her Majesty and the Government of such foreign country or state

THE EAST INDIA LOAN ACT, 1861

(24 & 25 Vict., c. 25)

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India

[28th June, 1861]

[Preamble and enacting words Rep (U K) 55 & 56 Vict, c 19 (S L R)]

Secretary of
State in
Council of
India may
raise any sum
not exceeding
four
millions

1 It shall be lawful for the Secretary of State in Council of India, at any time or times before the thirtieth day of April one thousand eight hundred and sixty-two, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole four millions,

and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others ¹

* * * * *

¹ The rest of this statute is omitted as being, *mutatis mutandis*, identical with 23 & 24 Vict, c 130 S 14 was repealed by 37 & 38 Vict, c 3, s 15

THE INDIAN CIVIL SERVICE ACT, 1861

(24 & 25 Vict., c. 54.)

An Act to confirm certain Appointments in India, and to amend the Law concerning the Civil Service there

[1st August, 1861]

*[Preamble reciting 33 Geo 3, c 52, ss 56, 57, and enacting words Rep 55 § 56 Vict, c 19 (S L R)]*1 *[Rep 55 § 56 Vict, c 19 (S L R).]*

2 All vacancies happening in any of the offices, places, or employments specified in the schedule annexed to this Act, and all such offices which may be created hereafter shall be filled up and supplied, except as herein-after provided, from amongst the covenanted civil servants of the Crown in India

Vacancies in certain offices to be supplied by covenanted civil servants

3. Where it appears to the authority in India by whom an appointment should be made to any office, place, or employment specified in the said schedule, that such appointment, under the special circumstances of the case, should be made without regard to the recited qualifications, conditions, and restrictions of the said Act, it shall be lawful for such authority to make such appointment accordingly

Persons not covenanted civil servants may, under special circumstances, be appointed to such offices subject to certain restrictions

Provided, that no person shall be so appointed who has not resided for at least seven years in India, and that every person previously to his being so appointed to any of the offices in the Revenue and Judicial Departments specified in the said schedule shall pass an examination in the vernacular language of the district in which he is to be employed, where such examination is now required, and shall be subject to all the departmental tests and other qualifications and restrictions which are or may be imposed in the like case on covenanted civil servants

4. Every such appointment shall be provisional only, and shall forthwith be reported to the Secretary of State in Council of India, together with the special reasons for making the same,

Such appointment in each case to be reported to the Secretary of State, etc

and unless the Secretary of State in Council shall approve such appointment, with the concurrence of a majority of members present at a meeting, and shall within twelve months from the date of such appointment notify such approval to the authority by whom the appointment was made, then such appointment shall be cancelled

5 All vacancies happening in any other offices, places, or employments than those mentioned in the said schedule, and all other offices

Certain offices may be filled up without

regard to re-
strictions pro-
scribed by the
recited Act

than those so mentioned that may hereafter be created in India, may be filled up and supplied without regard to the qualifications, conditions and restrictions prescribed by the said Act

Act not to
apply to office
of Lieutenant
Governor, &c.

6. Provided always that this Act shall not apply to the office of Lieutenant Governor of any part of Her Majesty's dominions in India, or to any offices for the supply of which provision may be made by any other Act of the present session of Parliament

Repeal of
33 Geo 3,
c 52, s 56,
&c

7. Section fifty-six of the said Act of the thirty-third year of King George the Third, and so much of the other sections of the said Act and of any other Act now in force as requires seniority as a condition or qualification for the appointment of civil servants to offices, places, or employments, shall be repealed

SCHEDULE

SECRETARIES, Junior Secretaries, and Under Secretaries to the several Governments in India, except the Secretaries, Junior Secretaries, and Under Secretaries in the Military, Marine and Public Works Departments

Accountant General

Civil Auditor

Sub treasurer

Judicial

- 1 Civil and sessions judges, or chief judicial officers of districts in the provinces now known as Regulation Provinces
- 2 Additional and assistant judges in the said provinces
- 3 Magistrates or chief magisterial officers of districts in the said provinces
- 4 Joint magistrates in the said provinces
- 5 Assistant magistrates or assistants to magistrates in the said provinces

Revenue

- 1 Members of the Board of Revenue in the Presidencies of Bengal and Madras
- 2 Secretaries to the said Boards of Revenue
- 3 Commissioners of Revenue or chief Revenue officers of divisions in the provinces now known as Regulation Provinces
- 4 Collectors of Revenue or chief Revenue officers of districts in the said provinces
- 5 Deputy or subordinate collectors where combined with the office of joint magistrate in the said provinces
- 6 Assistant collectors or assistants to collectors in the said provinces
- 7 Salt agents
- 8 Controller of salt chowkies
- 9 Commissioners of Customs, salt, and opium
- 10 Opium agents

THE INDIAN COUNCILS ACT, 1861¹

(24 & 25 Vict, c. 67.)

An Act to make better Provision for the Constitution of the Council of the Governor General of India, and for the Local Government of the several Presidencies and Provinces of India, and for the temporary Government of India in the Event of a Vacancy in the Office of Governor General

[1st August, 1861]

[Preamble and enacting words Rep 55 § 56 Vict, c 19 (S L R)]

1 This Act may be cited for all purposes as "The Indian Councils Act, 1861"

2. * * * * * 2 all Enactments continued in force
other enactments whatsoever now in force with relation to the Council of the Governor General of India or to the Councils of the Governors of the respective Presidencies of Fort Saint George and Bombay shall, save so far as the same are altered by or are repugnant to this Act, continue in force and be applicable to the Council of the Governor General of India and the Council of the respective Presidencies under this Act

3 There shall be five³ ordinary members of the said Council of the Governor General, three of whom shall from time to time be appointed
* * * * *⁴ from among such persons as
shall have been, at the time of such appointment in the service in India of the Crown, or of the Company and the Crown, for at least ten years, Composition of the Council of the Governor General of India

and if the person so appointed shall be in the military service of the Crown, he shall not during his continuance in office as a member of Council hold any military command, or be employed in actual military duties,

and the remaining two, one of whom shall be a barrister or a member of the Faculty of Advocates in Scotland of not less than five years' standing, shall be appointed from time to time by Her Majesty by warrant under Her Royal Sign Manual,

and it shall be lawful for the Secretary of State in Council to appoint the Commander-in-Chief of Her Majesty's Forces in India to be an extraordinary member of the said Council, and such extraordinary member of Council shall have rank and precedence at the Council Board next after the Governor General

¹ This Act and the Indian Councils Acts, 1892 and 1909, shall be construed together—see the Indian Councils Act, 1909 (9 Edw 7, c 4), s 8 (1), *post*

² The portion omitted repealed 3 & 4 Will 4 c 85, ss 40, 43, 44, 50, 66, 70, and so much of ss 61, 64 as related to vacancies in the office of ordinary member of Council, also 16 & 17 Vict, c 95, ss 22—24, 26 It was repealed by 55 & 56 Vict, c 19 (S L R)

³ The number may be increased to six—see the Indian Councils Act, 1874 (37 & 38 Vict, c 91)

⁴ The words "by the Secretary of State for India in Council, with the concurrence of a majority of members present at a meeting," were repealed by 41 & 42 Vict, c 79 (S L R), and have been omitted

Present mem-
bers of Coun-
cil to con-
tinue

4 The present ordinary members of the Council of the Governor General of India shall continue to be ordinary members under and for the purposes of this Act,

Appointment
of fifth mem-
ber, and
salaries of
members,
etc

and it shall be lawful for Her Majesty, * * * *¹ to appoint by warrant as aforesaid an ordinary member of Council, to complete the number of five hereby established,

and there shall be paid to such ordinary member, and to all other ordinary members who may be hereafter appointed, such amount of salary as may from time to time be fixed for members of the Council of the Governor General by the Secretary of State in Council, with the concurrence of a majority of members of Council present at a meeting,

and all enactments of any Act of Parliament or law of India respecting the Council of the Governor General of India and the members thereof shall be held to apply to the said Council as constituted by this Act, except so far as they are repealed by or are repugnant to any provisions of this Act

Provisional
appointments
of members
of Council.

5. It shall be lawful for the Secretary of State in Council, with the concurrence of a majority of members present at a meeting, and for Her Majesty, by warrant, as aforesaid, respectively to appoint any person provisionally to succeed to the office of ordinary member of the Council of the Governor General, when the same shall become vacant by the death or resignation of the person holding the said office, or on his departure from India with intent to return to Europe, or on any event and contingency expressed in any such provisional appointment and such appointment again to revoke,

but no person so appointed to succeed provisionally to such office shall be entitled to any authority, salary, or emolument appertaining thereto until he shall be in the actual possession of such office

Provisions
during
absence of
Governor
General in
other parts
of India

6 Whenever the said Governor General in Council shall declare that it is expedient that the said Governor General should visit any part of India unaccompanied by his Council, it shall be lawful for the said Governor General in Council, previously to the departure of the said Governor General, to nominate some member of the said Council to be president of the said Council, in whom, during the time of such visit, the powers of the said Governor General in assemblies of the said Council shall be reposed, except that of assenting to or withholding his assent from, or reserving for the signification of Her Majesty's pleasure any law or regulation, as herein-after provided,

and it shall be lawful in every such case for the said Governor General in Council, by an order for that purpose to be made, to authorize the Governor General alone to exercise all or any of the powers which might be exercised by the said Governor General in Council in every

¹ The words "on the passing of this Act" were repealed by 55 & 56 Vict., c. 19 (S L R)

case in which the said Governor General may think it expedient to exercise the same, except the power of making laws or regulations

7. Whenever the Governor General, or such president so nominated as aforesaid, shall be obliged to absent himself from any meeting of Council other than meetings for the purpose of making laws and regulations, (as herein-after provided,) owing to indisposition or any other cause whatsoever, and shall signify his intended absence to the Council, then and in every such case the senior member¹ for the time being who shall be present at such meeting shall preside thereat, in such manner, and with such full powers and authorities during the time of such meeting, as such Governor General or president would have had in case he had been present at such meeting

Provisions in case of absence of Governor General, etc., from meeting of Council

Provided always that no act of Council made at any such meeting shall be valid to any effect whatsoever unless the same shall be signed by such Governor General or president respectively if such Governor General or president shall at the time be resident at the place at which such meeting shall be assembled and shall not be prevented by such indisposition from signing the same

Provided always, that in case such Governor General or president, not being so prevented as aforesaid, shall decline or refuse to sign such act of Council, he and the several members of Council who shall have signed the same, shall mutually exchange with and communicate in writing to each other the grounds and reasons of their respective opinions, in like manner and subject to such regulations and ultimate responsibility as are by the East India Company Act, 1795, sections forty-seven, forty-eight, forty-nine, fifty and fifty-one provided and described in cases where such Governor General shall, when present, dissent from any measure proposed or agitated in the Council

8. It shall be lawful for the Governor General from time to time to make rules and orders for the more convenient transaction of business in the said Council,

Power of Governor General to make rules for conduct of business

and any order made or act done in accordance with such rules and orders (except as hereafter provided respecting laws and regulations) shall be deemed to be the order or act of the Governor General in Council

9. The said Council shall from time to time assemble at such place or places as shall be appointed by the Governor General in Council within the territories of India,

Council where to assemble

and as often as the said Council shall assemble within either of the Presidencies of Fort Saint George or Bombay, the Governor of such Presidency shall act as an extraordinary member of Council,

and as often as the said Council shall assemble within any other division, province, or territory having a Lieutenant Governor, such

¹ The Vice President appointed under s 4 of the Indian Councils Act, 1909 (9 Edw 7, c 4), is to be deemed to be the senior member See 9 Edw 7, c 4, s 4, *post*

Lieutenant Governor shall act as an additional councillor at meetings of the Council, for the purpose of making laws and regulations only, in manner herein-after provided

Additional members to be summoned for the purpose of making laws and regulations

10. For the better exercise of the power of making laws and regulations vested in the Governor (General in Council, the Governor General shall nominate, in addition to the ordinary and extraordinary members above mentioned, and to such Lieutenant Governor in the case aforesaid, such persons, ¹ * * * as to him may seem expedient to be members of Council for the purpose of making laws and regulations only,

and such persons shall not be entitled to sit or vote at any meeting of Council, except at meetings held for such purpose

Provided that not less than one half of the persons so nominated shall be non-official persons, that is, persons who, at the date of such nomination, shall not be in the civil or military service of the Crown in India,

and that the seat in Council of any non-official member accepting office under the Crown in India shall be vacated on such acceptance

Such members to be appointed for two years

11. Every additional member of Council so nominated shall be summoned to all meetings held for the purpose of making laws and regulations ² * * *

Resignation of additional members

12. It shall be lawful for any such additional member of Council to resign his office to the Governor General, and on acceptance of such resignation by the Governor General such office shall become vacant

13 [*Rep 55 & 56 Vict, c 14, s 4*]

No law to be invalid by reason of number of non-official members being incomplete

14. No law or regulation made by the Governor General in Council in accordance with the provisions of this Act shall be deemed invalid by reason only that the proportion of non-official additional members hereby provided was not complete at the date of its introduction to the Council or its enactment

Senior ordinary member of Council to preside at meetings for making laws and regulations in absence of Governor General, etc

15 In the absence of the Governor General and of the president, nominated as aforesaid, the ³senior ordinary member of the Council present shall preside at meetings of the Council for making laws and regulations,

4* * *

¹ The words "not less than six nor more than twelve in number" were repealed by 9 Edw 7, c 4, s 8, schedule

² The words "for the term of two years from the date of such nomination" were repealed by 9 Edw 7, c 4, s 8, schedule

³ The Vice President appointed under the Indian Councils Act, 1909 (9 Edw 7, c 4), s 4, is now the senior ordinary member—*see post*

⁴ The words "and the power of making laws and regulations vested in the Governor General in Council shall be exercised only at meetings of the said Council at which such Governor General or president, or some ordinary member of Council, and six or more members of the said Council, (including under the term members of the Council, such additional members as aforesaid,) shall be present," were repealed by 9 Edw 7, c 4, s 8, schedule

and in every case of difference of opinion at meetings of the said Quorum Council for making laws and regulations, where there shall be an equality of voices, the Governor General, or in his absence the president, and in the absence of the Governor General and president such senior ordinary member of Council there presiding, shall have two votes or the casting vote

16 [*Rep 55 & 56 Vict, c 19 (S L R)*]

17. It shall be lawful for the Governor General in Council from time to time to appoint all * * * ¹ times and places of meeting of the Council for the purpose of making laws and regulations under the provisions of this Act, and to adjourn, or from time to time to authorize such president, or senior ordinary member of Council in his absence, to adjourn any meeting for the purpose of making laws and regulations from time to time and from place to place

Power to appoint and adjourn meetings for making laws and regulations

18 It shall be lawful for the Governor General in Council to make rules for the conduct of business at meetings of the Council for the purpose of making laws and regulations under the provisions of this Act, prior to the first of such meetings,

Rules for conduct of business at such meetings

but such rules may be subsequently amended at meetings for the purpose of making laws or regulations, subject to the assent of the Governor General,

and such rules shall prescribe the mode of promulgation and authentication of such laws and regulations

Provided always, that it shall be lawful for the Secretary of State in Council to disallow any such rule, and to render it of no effect

19 No business shall be transacted at any meeting for the purpose of making laws and regulations, except as last herein-before provided, other than the consideration and enactment of measures introduced into the Council for the purpose of such enactment,

Business to be transacted at such meetings

and it shall not be lawful for any member or additional member to make or for the Council to entertain any motion, unless such motion be for leave to introduce some measure as aforesaid into Council or have reference to some measure actually introduced thereinto

Provided always, that it shall not be lawful for any member or additional member to introduce, without the previous sanction of the Governor General, any measure affecting,—

1st the public debt or public revenues of India, or by which any charge would be imposed on such revenues

2nd the religion or religious rights and usages of any class of Her Majesty's subjects in India

¹ The word "other" was repealed by 55 & 56 Vict, c 19 (S L R), and has been omitted

3rd the discipline or maintenance of any part of Her Majesty's
Military or Naval forces

4th the relations of the Government with foreign princes or
states

Assent of
Governor
General to
laws and re-
gulations
made at such
meetings

20. When any law or regulation has been made by the Council at a meeting for the purpose of making laws and regulations as aforesaid, it shall be lawful for the Governor General, whether he shall or shall not have been present in Council at the making thereof, to declare that he assents to the same, or that he withholds his assent from the same, or that he reserves the same for the signification of the pleasure of Her Majesty thereon,

and no such law or regulation shall have validity until the Governor General shall have declared his assent to the same, or until (in the case of a law or regulation so reserved as aforesaid) Her Majesty shall have signified her assent to the same to the Governor General, through the Secretary of State for India in Council, and such assent shall have been duly proclaimed by the said Governor General

Power of
the Crown to
disallow laws
and regula-
tions made at
such
meetings

21 Whenever any such law or regulation has been assented to by the Governor General, he shall transmit to the Secretary of State for India an authentic copy thereof,

and it shall be lawful for Her Majesty to signify, through the Secretary of State for India in Council, her disallowance of such law,

and such disallowance shall make void and annul such law from or after the day on which the Governor General shall make known, by proclamation or by signification to his Council, that he has received the notification of such disallowance by Her Majesty

Extent of the
powers of the
Governor
General in
Council to
make laws
and regu-
lations at
such meet-
ings

22 The Governor General in Council shall have power at meetings for the purpose of making laws and regulations as aforesaid, and subject to the provisions herein contained, to make laws and regulations for repealing, amending, or altering any laws or regulations whatever now in force or hereafter to be in force in the Indian territories now [or hereafter]¹ under the dominion of Her Majesty, and to make laws and regulations for all persons, whether British or native, foreigners or others, and for all courts of justice whatever, and for all places and things whatever within the said territories, and for all servants of the Government of India within the dominions of princes and states in alliance with Her Majesty²,

and the laws and regulations so to be made by the Governor General in Council shall control and supersede any laws and regulations in anywise repugnant thereto which shall have been made prior thereto by the Governors of the Presidencies of Fort St George and Bombay respec-

¹ Words in brackets were inserted by 55 & 56 Vict., c. 14, s. 3

² See also 28 & 29 Vict., c. 17, s. 1, and 32 & 33 Vict., c. 98, ss. 1, 3

and that the seat in Council of any non-official member accepting office under the Crown in India shall be vacated on such acceptance

30 Every additional member of Council so nominated shall be summoned to all meetings held for the purpose of making laws and regulations 1* * *

31 It shall be lawful for any such additional member of Council to resign his office to the Governor of the Presidency;

and on acceptance of such resignation by the Governor of the Presidency such office shall become vacant

32. [*Rep 55 & 56 Vict, c 14, s 4*]

33. No law or regulation made by any such Governor in Council in accordance with the provisions of this Act shall be deemed invalid by reason only that the proportion of non-official additional members hereby established was not complete at the date of its introduction to the Council or its enactment

34 At any meeting of the Council of either of the said Presidencies from which the Governor shall be absent, the ²senior civil ordinary member of Council present shall preside, ³* * *

and in any case of difference of opinion at meetings of any such Council for making laws and regulations where there shall be an equality of voices, the Governor, or in his absence the senior member then presiding, shall have two votes or the casting vote

35. [*Rep 55 & 56 Vict, c 19 (S L R)*]

36 It shall be lawful for every such Governor to appoint all * *⁴ times and places of meeting of his Council for the purpose of making laws and regulations under the provisions of this Act, and to adjourn or from time to time to authorize such senior ordinary member of Council in his absence to adjourn any meeting for making laws and regulations from time to time and from place to place

37 Previously to the first of such meetings of their Councils for the purpose of making laws and regulations under the provisions of this Act, the Governors of the said Presidencies in Council respectively shall make rules for the conduct of business at such meetings, subject to the sanction of the Governor General in Council,

but such rules may be subsequently amended at meetings for the purpose of making laws and regulations, subject to the assent of the Governor

¹ The words "for the term of two years from the date of such nomination" were repealed by 9 Edw 7 c 4, s 8, schedule

² The Vice President appointed under the Indian Councils Act, 1909 (9 Edw 7, c 4) s 4 is to be deemed to be the senior member, *see post*

³ The words "and the power of making laws and regulations hereby vested in such Governor in Council shall be exercised only at meetings of such Council at which the Governor or some ordinary member of Council and four or more members of Council (including under the term members of Council such additional members as aforesaid), shall be present" were repealed by 9 Edw 7, c 4, s 8, schedule

⁴ The word "subsequent" was repealed by 55 & 56 Vict, c 19 (S L R)

Such members to be appointed for two years

Resignation of additional members

No law to be invalid by reason of incompleteness of number of non-official members.

Senior civil ordinary member of Council to preside in absence of Governor of Presidency

Governors of Presidencies to appoint subsequent meetings, and adjourn them

Rules for conduct of business at such meetings

Provided always, that it shall be lawful for the Governor General in Council to disallow any such rule and render the same of no effect

38 No business shall be transacted at any meeting of the Council of either of the said Presidencies for the purpose of making laws and regulations (except as last herein-before provided) other than the consideration and enactment of measures introduced into such Council for the purpose of such enactment, ^{Business to be transacted at such meetings}

and it shall not be lawful for any member or additional member to make, or for the Council to entertain, any motion, unless such motion shall be for leave to introduce some measure as aforesaid into Council, or have reference to some measure actually introduced thereinto

Provided always, that it shall not be lawful for any member or additional member to introduce, without the previous sanction of the Governor, any measure affecting the public revenues of the Presidency, or by which any charge shall be imposed on such revenues

39 When any law or regulation has been made by any such Council at a meeting for the purpose of making laws and regulations as aforesaid, it shall be lawful for the Governor, whether he shall or shall not have been present in Council at such meeting, to declare that he ^{Governor to assent to laws and regulations of Presidency} assents to, or withholds his assent from, the same

tions made prior¹ to the coming into operation of this Act by any authority in India, so far as they affect such Presidency

Provided always, that such Governor in Council shall not have the power of making any laws or regulations which shall in any way affect any of the provisions of this Act, or of any other Act of Parliament in force or hereafter to be in force in such Presidency.

43. It shall not be lawful for the Governor in Council of either of the aforesaid Presidencies, except with the sanction of the Governor General, previously communicated to him, to make regulations or take into consideration any law or regulation for any of the purposes next herein-after mentioned, that is to say,

- 1 affecting the public debt of India, or the customs duties, or any other tax or duty now in force and imposed by the authority of the Government of India for the general purposes of such Government
- 2 regulating any of the current coin, or the issue of any bills, notes, or other paper currency
- 3 regulating the conveyance of letters by the post office or messages by the electric telegraph within the Presidency
- 4 altering in any way the Penal Code of India, as established by Act of the Governor General in Council, No 42² of 1860
- 5 affecting the religion or religious rites and usages of any class of Her Majesty's subjects in India
- 6 affecting the discipline or maintenance of any part of Her Majesty's Military or Naval Forces
- 7 regulating patents or copyright
- 8 affecting the relations of the Government with foreign princes or states

Provided always, that no law or provision of any law or regulation which shall have been made by any such Governor in Council and assented to by the Governor General as aforesaid, shall be deemed invalid only by reason of its relating to any of the purposes comprised in the above list.

44. The Governor General in Council, so soon as it shall appear to him expedient, shall, by proclamation, extend the provisions of this Act touching the making of laws and regulations for the peace and good government of the Presidencies of Fort Saint George and Bombay to the Bengal division of the Presidency of Fort William, and shall specify in such proclamation the period at which such provisions shall take effect,

¹ See now 55 & 56 Vict., c. 14, s. 5.

² Should be "No 45."

Governor of Presidency, except with sanction of Governor General, not to make or take into consideration laws or regulations for certain purposes.

Governor General may establish Councils for making laws and regulations in the Presidency of Fort William

and the number of councillors whom the Lieutenant Governor of the in Bengal, said division may nominate for his assistance in making laws and etc regulations,

and it shall be further lawful for the Governor General in Council, from time to time and in his discretion, by similar proclamation, to extend the same provisions to the territories known as the North-Western Provinces and the Punjab respectively

45 Whenever such proclamation as aforesaid shall have been issued regarding the said division or territories respectively, the Lieutenant Governor thereof shall nominate, for his assistance in making laws and regulations, such number of councillors as shall be in such proclamation specified Constitution of such councils.

Provided that not less than one-third of such councillors shall in every case be non-official persons, as herein-before described, and that the nomination of such councillors shall be subject to the sanction of the Governor General,

and provided further, that at any meeting of any such Council from which the Lieutenant Governor shall be absent, the member¹ highest in official rank among those who may hold office under the Crown shall preside,

* * * * *

and in any case of difference of opinion at any meetings of such Council, for making laws and regulations, where there shall be an equality of voices, the Lieutenant Governor, or such member highest in official rank as aforesaid then presiding, shall have two votes or the

Provided always, that any law or regulation made by the Governor or Lieutenant Governor in Council of any presidency, division, province, or territory shall continue in force in any part thereof which may be severed therefrom by any such proclamation, until superseded by law or regulation of the Governor General in Council, or of the Governor or Lieutenant Governor in Council of the presidency, division, province, or territory, to which such parts may become annexed

Powers of
newly consti-
tuted
Lieutenant
Governors in
Council

48 It shall be lawful for every such Lieutenant Governor in Council thus constituted to make laws for the peace and good government of his respective division, province, or territory,

and, except as otherwise herein-before specially provided, all the provisions in this Act contained respecting the nomination of additional members for the purpose of making laws and regulations for the Presidencies of Fort Saint George and Bombay, and limiting the power of the Governors in Council of Fort Saint George and Bombay for the purpose of making laws and regulations, and respecting the conduct of business in the meetings of such Councils for that purpose, and respecting the power of the Governor General to declare or withhold his assent to laws or regulations made by the Governor in Council of Fort Saint George and Bombay, and respecting the power of Her Majesty to disallow the same, shall apply to laws or regulations to be so made by any such Lieutenant Governor in Council

Previous as-
sent of the
Crown neces-
sary to give
validity to
proclamation

49 Provided always, that no proclamation to be made by the Governor General in Council under the provisions of this Act for the purpose of constituting any Council for the presidency, division, provinces or territories herein-before named, or any other provinces, or for altering the boundaries of any presidency, division, province, or territory, or constituting any new province for the purpose of this Act, shall have any force or validity until the sanction of Her Majesty to the same shall have been previously signified by the Secretary of State in Council to the Governor General

Provision for
the supply of
the office of
Governor
General in
certain cir-
cumstances

50 If any vacancy shall happen in the office of Governor General of India when no provisional successor shall be in India to supply such vacancy, then and in every such case ¹[the Governor of the Presidency of Fort William in Bengal,] the Governor of the Presidency of Fort Saint George or the Governor of the Presidency of Bombay who shall have been first appointed to the office of Governor by Her Majesty, shall hold and execute the said office of Governor General of India ²* * * until a successor shall arrive, or until some person in India shall be duly appointed thereto,

and every such acting Governor General shall, during the time of his continuing to act as such, have and exercise all the rights and powers

¹ Inserted by 2 & 3 Geo 5, c 6, s 4 and Sch, Part I

² The words "and Governor of the Presidency of Fort William in Bengal" were repealed by 2 & 3 Geo 5, c 6, s 4 and Sch, Part II

of Governor General of India, and shall be entitled to receive the emoluments and advantages appertaining to the office by him supplied, such acting Governor General foregoing the salary and allowances appertaining to the office of Governor to which he stands appointed,

and such office of Governor shall be supplied for the time during which such Governor shall act as Governor General, in the manner

3 & 4 Will 4, c 85 directed in section sixty-three of the Government of India Act, 1833

51 If, on such vacancy occurring, it shall appear to the Governor, who by virtue of this Act shall hold and execute the said office of Governor General, necessary to exercise the powers thereof before he shall have taken his seat in Council, it shall be lawful for him to make known by proclamation his appointment, and his intention to assume the said office of Governor General,

If it appears to Governor necessary to exercise powers before taking his seat in Council, he may make his appointment, etc., known by proclamation

and after such proclamation, and thenceforth until he shall repair to the place where the Council may assemble, it shall be lawful for him to exercise alone all or any of the powers which might be exercised by the Governor General in Council, except the power of making laws and regulations,

and all acts done in the exercise of the said powers, except as aforesaid, shall be of the same force and effect as if they had been done by the Governor General in Council

Provided, that all acts done in the said Council after the date of such proclamation, but before the communication thereof to such Council, shall be valid, subject nevertheless to revocation or alteration by such Governor who shall have so assumed the said office of Governor General,

and from the date of the vacancy occurring, until such Governor shall have assumed the said office of Governor General, the provisions of section sixty-two of the Government of India Act, 1833, shall be and the same are declared to be applicable to the case

3 & 4 Will 4, c 85

52 Nothing in this Act contained shall be held to derogate from or interfere with (except as herein-before expressly provided) the rights vested in Her Majesty, or the powers of the Secretary of State for India in Council, in relation to the government of Her Majesty's dominions in India under any law in force at the date of the passing of this Act, and all things which shall be done by Her Majesty or by the Secretary of State as aforesaid, in relation to such government, shall have the same force and validity as if this Act had not been passed

Nothing in this Act shall derogate from the powers of the Crown or Secretary of State for India in Council.

53 Wherever any act or thing is by this Act required or authorized to be done by the Governor General or by the Governors of the Presidencies of Fort Saint George and Bombay in Council, it is not required that such act or thing should be done at a meeting for making laws and regulations unless where expressly provided

Meaning of term "in Council."

54 [*Rep 41 & 42 Vict, c 79 (S L R)*]

THE MALICIOUS DAMAGE ACT, 1861¹

(24 & 25 Vict., c. 97.)

An Act to consolidate and amend the Statute Law of England and Ireland relating to Malicious Injuries to Property

[6th August, 1861]

[Preamble and enacting words Rep (U K) 55 & 56 Vict., c 19 (S L R)]

* * * * *

Setting fire to
or casting
away or de-
stroying a
ship

42. Whosoever shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, whether the same be complete or in an unfinished state, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, * * * *² or to be imprisoned * * * *² and, if a male under the age of sixteen years, with or without whipping

Setting fire
to or casting
away, etc., a
ship, to pre-
judice the
owner or
underwriters

43. Whosoever shall unlawfully and maliciously set fire to, or cast away, or in anywise destroy any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that has underwritten or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, * * * *² or to be imprisoned * * * *², and, if a male under the age of sixteen years, with or without whipping

* * * * *

Principals in
the second
degree and
accessories.

56. In the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable, and every accessory after the fact to any felony punishable under this Act shall on conviction be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, * * * *³

Abettors in
misdemean-
ors

and every person who shall aid, abet, counsel, or procure the commission of any misdemeanor punishable under this Act shall be liable to be proceeded against, indicted, and punished as a principal offender

* * * * *

¹ Ss 42, 43, 56 are the only extant provisions applicable to India, and they alone are reproduced² Words repealed (U K) by 55 & 56 Vict, c 19 (S L R), and 56 & 57 Vict, c 54 (S L R), have been omitted³ The words "and with or without solitary confinement" were repealed (U K) by 56 & 57 Vict, c 54 (S L R.)

THE INDIAN HIGH COURTS ACT, 1861 ¹

(24 & 25 Vict, c. 104)

An Act for establishing High Courts of Judicature in India

[6th August, 1861]

[Preamble]

1 [Rep 55 & 56 Vict, c 19 (S L R) It authorized the establishment of High Courts in Bengal, Madras and Bombay, and the High Courts there were constituted by Letters Patent thereunder]

2 The High Court of Judicature at Fort William in Bengal and at the Presidencies of Madras and Bombay respectively shall consist of a chief justice and as many judges, not exceeding fifteen,² as Her Majesty may from time to time think fit and appoint, who shall be selected from—

Constitution
of High
Courts

- 1st barristers of not less than five years standing, or
- 2nd members of the covenanted Civil Service of not less than ten years standing, and who shall have served as zila judges, or shall have exercised the like powers as those of a zila judge, for at least three years of that period, or
- 3rd persons who have held judicial office not inferior to that of principal sadr amin or judge of a small cause court for a period of not less than five years, or
- 4th persons who have been pleaders of a sadr court or High Court for a period of not less than ten years, if such pleaders of a sadr court shall have been admitted as pleaders of a High Court

Provided, that not less than one-third of the judges of such High Courts respectively, including the chief justice, shall be barristers, and not less than one-third shall be members of the covenanted Civil Service

3 [Rep 41 & 42 Vict, c 79 (S L R)]

4 All the judges of the High Courts established under this Act shall hold their offices during Her Majesty's pleasure

Tenure of
office of
judges, and
resignation

Provided, that it shall be lawful for any judge of a High Court to resign such office of judge to the Governor General of India in Council, or Governor in Council of the Presidency in which such High Court is established

¹ For collective short title of this Act and the Indian High Courts Act of 1865 and 1911, see 1 & 2 Geo 5, c 18, s 5

² The maximum number has been raised to twenty by 1 & 2 Geo 5, c 12, s. 1

Precedence of
judges of
High Courts

5. The chief justice of any such High Court shall have rank and precedence before the other judges of the same court, * * * *¹, and, except as aforesaid, all the judges of each High Court shall have rank and precedence according to the seniority of their appointments, unless otherwise provided in their patents

Salaries, etc.,
of judges of
High Courts

6. * * * *¹ it shall be lawful for the Secretary of State in Council of India to fix the salaries, allowances, furloughs, retiring pensions, and (where necessary) expenses for equipment and voyage of the chief justices and judges of the several High Courts under this Act, and from time to time to alter the same

Provided always, that such alteration shall not affect the salary of any judge appointed prior to the date thereof

Provision for
vacancy of
the office of
chief justice
or other
judge

7. Upon the happening of a vacancy in the office of chief justice, and during any absence of a chief justice, the Governor General in Council or Governor in Council, as the case may be, shall appoint one of the judges of the same High Court to perform the duties of chief justice of the said Court until some person has been appointed by Her Majesty to the office of chief justice of the same Court, and has entered on the discharge of the duties of such office, or until the chief justice has returned from such absence,

and upon the happening of a vacancy in the office of any other judge of any such High Court, and during any absence of any such judge, or on the appointment of any such judge to act as chief justice, it shall be lawful for the Governor General in Council, or Governor in Council, as the case may be, to appoint a person, with such qualifications as are required in persons to be appointed to the High Court, to act as a judge of the said High Court,

and the person so appointed shall be authorized to sit and to perform the duties of a judge of the said Court until some person has been appointed by Her Majesty to the office of judge of the same Court, and has entered on the discharge of the duties of such office or until the absent judge has returned from such absence or until the Governor General in Council or Governor in Council as aforesaid shall see cause to cancel the appointment of such acting judge

8. [*Abolition of the Supreme Courts at Calcutta, Madras and Bombay of the Court of Sudder Dewany Adawlat and Sudder Nizamat Adawlat at Calcutta, of Sudder Adawlat, Foujdary Adawlat at Madras, and of Sudder Dewany Adawlat and Sudder Foujdary Adawlat at Bombay Rep 55 & 56 Vict, c 19 (S L R)*]

And the records and documents of the several courts so abolished in each Presidency shall become and be records and documents of the High Court established in the same Presidency

¹ Words repealed by 41 & 42 Vict, c 79 (S L R), have been omitted

9. Each of the High Courts to be established under this Act shall have and exercise all such civil, criminal, admiralty and vice-admiralty, testamentary, intestate and matrimonial jurisdiction, original and appellate, and all such powers and authority for and in relation to the administration of justice in the Presidency for which it is established, as Her Majesty may by such Letters Patent as aforesaid grant and direct, subject, however, to such directions and limitations as to the exercise of original civil and criminal jurisdiction beyond the limits of the presidency towns as may be prescribed thereby;

Jurisdiction
and powers
of High
Courts

and save as by such Letters Patent may be otherwise directed and subject and without prejudice to the legislative powers in relation to the matters aforesaid of the Governor General of India in Council, the High Court to be established in each Presidency shall have and exercise all jurisdiction and every power and authority whatsoever in any manner vested in any of the courts in the same Presidency abolished under this Act at the time of the abolition of such last-mentioned courts

10 [*Rep. 28 & 29 Vict., c 15, s. 1*]

11 Upon the establishment of the said High Courts in the said Presidencies respectively all provisions then in force in India of Acts of Parliament or of any Orders of Her Majesty in Council or charters, or of any Acts of the Legislature of India, which at the time or respective times of the establishment of such High Courts are respectively applicable to the Supreme Courts at Fort William in Bengal, Madras and Bombay respectively, or to the judges of those Courts shall be taken to be applicable to the said High Courts, and to the judges thereof respectively, so far as may be consistent with the provisions of this Act, and the Letters Patent to be issued in pursuance thereof and subject to the legislative powers in relation to the matters aforesaid of the Governor General of India in Council.

Existing
provisions
applicable to
Supreme
Courts to
apply to
High Courts.

12 From and after the abolition of the courts abolished as aforesaid in any of the said Presidencies, the High Court of the same Presidency shall have jurisdiction over all proceedings pending in such abolished Courts at the time of the abolition thereof,

Provision as
to pending
proceedings
in abolished
courts

and such proceedings, and all previous proceedings in the said last-mentioned Courts, shall be dealt with as if the same had been had in the said High Court, save that any such proceedings may be continued as nearly as circumstances permit under and according to the practice of the abolished Courts respectively

13 Subject to any laws or regulations which may be made by the Governor General in Council, the High Court established in any Presidency under this Act may by its own rules provide for the exercise by one or more judges, or by division courts constituted by two or more judges of the said High Court of the original and appellate jurisdiction

Power to
High Courts
to provide for
exercise of
jurisdiction
by single
judges or

division
courts.

vested in such Court in such manner as may appear to such Court to be convenient for the due administration of justice.

Chief justice
to determine
what judges
shall sit alone
or in the divi-
sion courts

14. The chief justice of each High Court shall from time to time determine what judge in each case shall sit alone, and what judges of the Court, whether with or without the chief justice, shall constitute the several division courts as aforesaid

High Courts
to superin-
tend and to
frame rules of
practice for
subordinate
courts

15. Each of the High Courts established under this Act shall have superintendence over all courts which may be subject to its appellate jurisdiction and shall have power to call for returns and to direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction, and shall have power to make and issue general rules for regulating the practice and proceedings of such courts, and also to prescribe forms for every proceeding in the said courts for which it shall think necessary that a form be provided, and also for keeping all books, entries, and accounts to be kept by the officers, and also to settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts, and from time to time to alter any such rule or form or table,

and the rules so made and the forms so framed and the tables so settled, shall be used and observed in the said Courts, provided that such general rules and forms and tables be not inconsistent with the provisions of any law in force and shall before they are issued have received the sanction, in the Presidency of Fort William of the Governor General in Council, and in Madras or Bombay of the Governor in Council of the respective Presidencies

Her Majesty
may establish
a High Court
in and for any
portion of the
territories
within Her
Majesty's
dominions in
India not in-
cluded within
the limits of
the local
jurisdiction
of another
High Court

16 ¹It shall be lawful for Her Majesty, if at any time hereafter Her Majesty see fit so to do, by Letters Patent under the Great Seal of the United Kingdom, to erect and establish a High Court of Judicature in and for any portion of the territories within Her Majesty's dominions in India not included within the limits of the local jurisdiction of another High Court, to consist of a chief justice, and of such number of other judges, with such qualifications as are required in persons to be appointed to the High Courts established at the Presidencies herein-before mentioned, as Her Majesty from time to time may think fit and appoint,

and it shall be lawful for Her Majesty by such Letters Patent to confer on such court any such jurisdiction, powers, and authority as under this Act is authorized to be conferred on or will become vested in the High Court to be established in any Presidency herein-before mentioned,

and, subject to the directions of such Letters Patent, all the provisions of this Act having reference to the High Court established in any such Presidency, and to the chief justice and other judges of such court, and to the Governor General or Governor of the Presidency in which such High Court is established, shall, as far as circumstances may permit, be

¹ See the Indian High Courts Act, 1911 (1 & 2 Geo 5, c 18), s 2

applicable to the High Court established in the said territories, and to the chief justice and other judges thereof, and to the person administering the government of the said territories

17 [*Rep as to U K 56 § 57 Vict , c 14 (S L R) Omitted as being spent*]

18 [*Rep 28 § 29 Vict , c 15, s 2*]

19 The word "barrister" in this Act shall be deemed to include barristers of England or Ireland, or members of the Faculty of Advocates in Scotland, <sup>Interpreta-
tion of terms</sup>

and the words "Governor General" and "Governor" shall comprehend the officer administering the government

THE WILLS ACT, 1861

(24 & 25 Vict , c 114)

An Act to amend the Law with respect to Wills of Personal Estate made by British Subjects

[6th August, 1861]

law of the
place where
made

required by the laws for the time being in force in that part of the United Kingdom where the same is made

Change of
domicile not
to invalidate
will

3. No will or other testamentary instrument shall be held to be revoked or to have become invalid, nor shall the construction thereof be altered, by reason of any subsequent change of domicile of the person making the same

Nothing in
this Act to
invalidate
wills of per-
sonalty other-
wise valid

4. Nothing in this Act contained shall invalidate any will or other testamentary instrument as regards personal estate which would have been valid if this Act had not been passed except as such will or other testamentary instrument may be revoked or altered by any subsequent will or testamentary instrument made valid by this Act

Application
of Act

5. This Act shall extend only to wills and other testamentary instruments made by persons who die after the passing of this Act

THE DOMICILE ACT, 1861

(24 & 25 Vict., c. 121)

An Act to amend the Law in relation to the Wills and Domicile of British Subjects dying whilst resident abroad, and of Foreign Subjects dying whilst resident within Her Majesty's Dominions

[6th August, 1861]

[*Preamble and enacting words Rep (U K) 55 & 56 Vict , c 19 (S L R)*]

On the con-
clusion of a
convention
with any
foreign state,
Her Majesty
may by Order
in Council
direct that no
British sub-
ject dying in
such country
shall be
deemed to
have acquired
a domicile
unless he
shall have
resided there
for one
year imme-
diately pre

1. Whenever Her Majesty shall by convention with any foreign state agree that provisions to the effect of the enactments herein contained shall be applicable to the subjects of Her Majesty and of such foreign state respectively, it shall be lawful for Her Majesty by any Order in Council to direct, and it is hereby enacted, that from and after the publication of such Order in the London Gazette no British subject resident at the time of his or her death in the foreign country named in such Order shall be deemed under any circumstances to have acquired a domicile in such country unless such British subject shall have been resident in such country for one year immediately preceding his or her decease, and shall also have made and deposited in a public office of such foreign country (such office to be named in the Order in Council) a declaration in writing of his or her intention to become domiciled in such foreign country, and every British subject dying resident in such foreign country, but without having so resided and made such declara-

tion as aforesaid, shall be deemed for all purpose of testate or intestate succession as to moveables to retain the domicile he or she possessed at the time of his or her going to reside in such foreign country as aforesaid.

ceding his death, and shall have declared his intention to become domiciled, but subjects so dying shall for all purposes of testate or intestate succession retain the domicile possessed at the time of going to reside in such foreign country

2. After any such convention as aforesaid shall have been entered into by Her Majesty with any foreign state it shall be lawful for Her Majesty by Order in Council to direct, and from and after the publication of such order in the London Gazette it shall be and is hereby enacted, that no subject of any such foreign country who at the time of his or her death shall be resident in any part of Great Britain or Ireland shall be deemed under any circumstances to have acquired a domicile therein, unless such foreign subject shall have been resident within Great Britain or Ireland for one year immediately preceding his or her decease, and shall also have signed, and deposited with Her Majesty's Secretary of State for the Home Department, a declaration in writing of his or her desire to become and be domiciled in England, Scotland, or Ireland, and that the law of the place of such domicile shall regulate his or her moveable succession

Corresponding provisions as to subjects of such foreign state dying in Great Britain or Ireland

3. This Act shall not apply to any foreigners who may have obtained letters of naturalization in any part of Her Majesty's dominions

Exemption of foreigners naturalized

4. Whenever a convention shall be made between Her Majesty and any foreign state, whereby Her Majesty's consuls or vice-consuls in such foreign state shall receive the same or the like powers and authorities as are hereinafter expressed, it shall be lawful for Her Majesty by Order in Council to direct, and from and after the publication of such Order in the London Gazette it shall be and is hereby enacted, that whenever any subject of such foreign state shall die within the dominions of Her Majesty, and there shall be no person present at the time of such death who shall be rightfully entitled to administer to the estate of such deceased person, it shall be lawful for the consul, vice-consul, or consular agent of such foreign state within that part of Her Majesty's dominions where such foreign subject shall die to take possession and have the custody of the personal property of the deceased and to apply

On the conclusion of a convention with any foreign state Her Majesty may by Order in Council direct that when subjects of such foreign state die in Her Majesty's dominions, and there shall be no persons to administer to

their estates,
the consul,
etc., of such
foreign state
may ad-
minister

the same in payment of his or her debts and funeral expenses and to retain the surplus for the benefit of the persons entitled thereto;

but such consul, vice-consul or consular agent shall immediately apply for and shall be entitled to obtain from the proper court letters of administration of the effects of such deceased person, limited in such manner and for such time as to such court shall seem fit

THE INDIA STOCK TRANSFER ACT, 1862

(25 & 26 Vict., c. 7.)

An Act to provide for the Registration and Transfer of India Stocks at the Bank of Ireland, and for the mutual Transfer of such Stocks from and to the Banks of England and Ireland respectively

[11th April, 1862]

[*Preamble reciting 23 & 24 Vict., c. 102, and enacting words Rep (U K) 56 & 57 Vict., c. 14 (S L R)*]

Interpreta-
tion of ex-
pression
"India
stock"

1. In this Act the expression "India stock" means stock created or to be created for the raising of money in the United Kingdom on the credit of the revenues of India, but does not include the stock commonly known by the name of East India Stock

Power to
transfer India
stock from
the books of
the Bank of
England to
the books of
the Bank of
Ireland

2 * * * *¹ it shall and may be lawful for any person or persons holding any India stock transferable at the Bank of England, upon making application in the manner hereinafter provided, to transfer or cause to be transferred such stock, for the purpose of having the same amount of stock of the same denomination written into the books of the ²* * * * Bank of Ireland, and to be transferable at such Bank, and the dividends on the stock so transferred shall be payable half-yearly at the Bank of Ireland on the same days on which such dividends would have been payable at the Bank of England if the said stock had never been so transferred

Assignments
or transfers
of stock so
transferred
to be made
at the Bank
of Ireland,
etc

3 The several stocks so transferred, or any share or interest therein, and the proportional dividend attached thereto respectively, shall be assignable and transferable at the Bank of Ireland, as directed by this Act, and not otherwise,

and there shall be kept at the Bank of Ireland within the City of Dublin a book or books wherein all assignments or transfers of any part of the several stocks and the proportional dividends attached thereto respect-

¹ The words "From and after the passing of this Act" were repealed (U K) by 56 & 57 Vict., c. 14 (S L R)

² The words "Governor and Company of the" were repealed (U K.) by 56 & 57 Vict., c. 14 (S L R.)

ively shall be entered and registered; which entries shall be conceived in proper words for that purpose, and shall be signed by the parties making such assignments or transfers, or if any such party or parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses,

* * * *¹ and no other method of assigning or transferring any such stock and the dividend attached thereto, or any interest therein, at the Bank of Ireland, shall be good and available in law,

and no stamp duties whatsoever shall be charged upon the said assignment or transfers or any of them

4 It shall and may be lawful for any person or persons holding any India stock transferable at the Bank of Ireland, upon making application in the manner hereinafter provided, to transfer or cause to be transferred such stock, for the purpose of having the same amount of stock of the same denomination written into the books of the * * * *² Bank of England and to be transferable at such Bank

Power to transfer India stock from the books of the Bank of Ireland to the books of the Bank of England

5 Notwithstanding anything herein-before contained to the contrary it shall not be lawful for any person to make any transfer of any stock from the Bank of England to the Bank of Ireland, or from the Bank of Ireland to the Bank of England, under the provisions of this Act, at any time within three clear days before the day on which the books shall be closed for the purpose of striking the balances of the several accounts for the purpose of calculating the half-yearly dividend, or within such other period as the * * * *² Bank of England, in concurrence with the * * * *² Bank of Ireland, may from time to time prescribe

No transfer shall be made within a certain period before the closing day

6. Any person or persons holding India stock transferable at the Bank of England or at the Bank of Ireland respectively, and desiring to transfer the same so as to make such stock transferable at the Bank of Ireland or at the Bank of England respectively, shall apply in writing, or cause application in writing to be made by some person on his, her, or their behalf, to the * * * *² Bank of England or Bank of Ireland respectively at which such stock shall be transferable, for permission to transfer or cause to be transferred such stock for the purpose of having the same amount of stock of the same denomination written into the books of the * * * *² Bank of Ireland or into the books of the * * * *² Bank of England respectively, as the case may require,

Application to be made to the Banks of England and Ireland for permission to transfer from the one to the other, and upon such transfers being made certificate to be granted, etc

and such application shall be according to such form as shall be established by the * * * *² Bank of England, in concurrence with the * * * *² Bank of Ireland, and shall be the same in all cases,

¹ Words repealed (U K) by 56 & 57 Vict., c. 14 (S L R), have been omitted

² The words "Governor and Company of the" were repealed (U K) by 56 & 57 Vict., c. 14 (S L R)

and upon such application having been made, and upon such person or persons transferring the stock or causing the same to be transferred into the name of the Accountant General of the Bank of England or Bank of Ireland respectively, at which it shall be desired that such stock shall be transferred, it shall and may be lawful for the Governor or Deputy Governor of the Bank of England or for the Governor or Deputy Governor of the Bank of Ireland, as the case may require, or for the Accountant General or Deputy Accountant General of such Governor and Company, or for the secretary or assistant secretary of such Governor and Company, for the time being, and they are hereby respectively authorized and required, to grant a certificate to the person or persons making such transfer, or on whose behalf such transfer shall have been made, directed to the * * * *¹ Bank of Ireland or the * * * *¹ Bank of England to which it shall be desired that such stock shall be transferred,

and such certificate shall be according to such form as shall be established by the * * * *¹ Bank of England, in concurrence with the * * * *¹ Bank of Ireland, and shall be the same in all cases,

and such certificate shall state that the person or persons therein mentioned has or have transferred or caused to be transferred at the Bank of England or the Bank of Ireland, as the case may be, the stock therein described, to the Accountant General of the Bank of England or the Bank of Ireland as the case may be, for the purpose of having the amount of such stock written in the name or names of such person or persons into the books of the * * * *¹ Bank of Ireland or of the * * * *¹ Bank of England, as the case may be, and shall describe such stock, and specify the amount thereof,

and thereupon the amount of the stock comprised in such certificate shall be written off the account of the Accountant General of the Bank of England, or the account of the Accountant General of the Bank of Ireland, by an entry made in conformity with such certificate

7 In every case where any transfer for the purposes of this Act shall be made at the Bank of England, the * * * *¹ said Bank shall cause notice thereof to be transmitted to the * * * *¹ Bank of Ireland on the same day on which such transfer shall be made,

and in like manner in every case where any transfer for the purposes of this Act shall be made at the Bank of Ireland, the * * * *¹ Bank of Ireland shall cause notice thereof to be transmitted to the * * * *¹ Bank of England on the same day on which such transfer shall be made

8 A book or books shall be provided and kept by the * * * *¹ Bank of England and the * * * *¹ Bank of Ireland at the Bank

¹ The words " Governor and Company of the " were repealed (U K.) by 56 & 57 Vict, c 14 (S L R)

Notices of transfers to be sent to the Bank into which the stock is to be transferred

Books to be provided for entering

of England and Bank of Ireland respectively, in which shall be fairly entered the names of all persons making any transfer of any stocks to the Accountant General of the said Banks respectively, under the provisions of this Act, to which book or books it shall and may be lawful for all persons making any such transfer, their respective executors, administrators, and assigns, from time to time and at all reasonable times to resort, and to inspect the same, without any fee or charge

transfers under this Act at the Banks of England and Ireland respectively

9 Whenever any transfer shall be made of any stock for the purposes of this Act at the Bank of England or at the Bank of Ireland respectively, then and in every such case, upon the production of a certificate of the Governor or Deputy Governor of the Bank of England or of the * * * *¹ Bank of Ireland at which any such transfer shall have been made, or of the Accountant General or Deputy Accountant General or of the secretary or assistant secretary of such Governor and Company respectively, granted according to the directions of this Act, the * * * *¹ Bank of Ireland or the * * * *¹ Bank of England respectively are hereby authorized and required to write or cause to be written into the books of such Bank of Ireland or Bank of England respectively, as the case may require, relating to stock of the same denomination, the amount of stock specified in such certificate,

On production of certificate from the Bank where the transfer is made, the Bank to which the transfer is made shall write the amount of stock into their books

and such amount of stock shall be written accordingly, transferable under the provisions of this Act at the Bank of Ireland or Bank of England respectively, as the case shall require, and shall be payable and transferable at such Bank of England or Bank of Ireland respectively,

and every such amount of stock so written into the books of the Bank of Ireland or of the Bank of England respectively shall be entitled to interest, or dividend payable at the Bank to which such transfer shall have been made, except as to stock which shall have been transferred after the closing and before the dividend shall become payable, in which case the party making the transfer shall receive the current dividend at the Bank from which such transfer shall have been made

10 The * * * *¹ Bank of England and the * * * *¹ Banks of England and Ireland to certify to the Secretary of State in Council of India, or to such officer or officers as the Secretary of State in Council of India shall direct, the amounts of such stocks, which shall then be written in the books of the * * * *¹ Bank of England or of the * * * *¹ Bank of Ireland, and shall be transferable at such Banks respectively under the provisions of this Act,

England and Ireland to certify to the Secretary of State in Council of India the amount of stock written in their books prior to dividend and the dividend to be paid to them by such Secretary of State

and upon the receipt of such certificates the Secretary of State in Council of India is hereby authorized and required to pay to the * * *

¹ The words " Governor and Company of the " were repealed (U K) by 56 & 57 Vict, c 14 (S L R)

* *¹ Bank of England and to the * * * *¹ Bank of Ireland, or into the Bank of England to the account of the * * * *¹ Bank of Ireland respectively, the amount of all interest or dividends then being or becoming payable upon such amounts of stocks as are specified in such certificates respectively

Remunera-
tion for ser-
vices under
this Act to be
paid to the
Bank of
Ireland.

11. In addition to the amount of interest or dividend which shall from time to time be paid to the * * * *¹ Bank of Ireland under the last provision, the Secretary of State in Council of India shall at the same time pay to the Governor and Company of the Bank of Ireland or to the account of such Governor and Company at the Bank of England, as a remuneration for their services in the execution of this Act, such sum as shall from time to time be fixed as the amount of such remuneration under any arrangement or agreement to be made between the Secretary of State in Council of India and the * * * *¹ Bank of Ireland.

Duplicates
may be grant-
ed of certi-
ficates lost or
destroyed.

12. In case of the loss or destruction of any certificate of the Governor or Deputy Governor, Accountant General or Deputy Accountant General, secretary or assistant secretary of the Bank of England or of the Bank of Ireland respectively, granted for the purposes of this Act, it shall and may be lawful for any such Governor or Deputy Governor, Accountant General or Deputy Accountant General, secretary or assistant secretary, and they are hereby respectively authorized and empowered upon proof of such loss or destruction to their satisfaction, to grant a duplicate of such certificate;

and such duplicate shall be full and sufficient authority for the purposes of this Act, and shall stand in the place and stead of the original certificate if such original certificate shall not have been previously found and acted upon

Provided always, that upon any loss or destruction or alleged loss or destruction of any such original certificate, and on the production of any such duplicate certificate, it shall and may be lawful for the Governor and Company of the Bank of England or the * * * *¹ Bank of Ireland respectively, and they are hereby authorized and required, to demand and take from the party or parties tendering any such duplicate full and sufficient security to Her Majesty, * * * *² to indemnify such Governor and Company against the production of or any claim which shall be made under or by virtue of any such original certificate so lost or destroyed, or alleged to have been lost or destroyed,

and if at any time after the time when a duplicate certificate shall have been produced and acted upon under this Act the original or such

¹ The words " Governor and Company of the " were repealed (U K) by 56 & 57 Vict , c 14 (S L R)

² The words " her heirs and successors " were repealed (U K) by 56 & 57 Vict , c 14 (S L R.)

certificate shall be tendered to the * * * *¹ Bank of England or the * * * *¹ Bank of Ireland, it shall and may be lawful for such Governor and Company, and they are hereby authorized and required, to detain such original certificate, and to cancel the same, and to transmit the same so cancelled to the * * * *¹ Bank of England or the * * * *¹ Bank of Ireland, as the case may be, by or on whose behalf such certificate shall have been given, and to deliver up such security as shall have been entered into touching the said original certificate to the party or parties entering into such security, or such of them as shall require the same

13. The * * * *¹ Bank of Ireland shall be at liberty to close their books for transfer of India stock on any day in the month prior to the days for payment of the half-yearly dividends on such stock, such day to be fixed or agreed on between the Bank of England and the Bank of Ireland

Power to Bank of Ireland to close books for transfer

Provided, however, that the period for which the same shall be closed shall not exceed fifteen days,

and the person or persons who on the day of such closing shall appear in the said books to be the proprietor or proprietors thereof shall be entitled to the current dividend thereon

14. If any person or persons shall forge or counterfeit, or cause or procure to be forged or counterfeited, or shall willingly act or assist in the forging or counterfeiting, any certificate or duplicate certificate required by this Act, or shall alter any number, figure, or word therein or shall utter or publish as true any such false, forged, counterfeited, or altered certificate, with intent to defraud the * * * *¹ Bank of England or the * * * *¹ Bank of Ireland, or any body politic or corporate, or any person or persons whomsoever, every such person or persons so forging or counterfeiting, or causing or procuring to be forged or counterfeited, or willingly acting or assisting in the forging or counterfeiting or altering, uttering, or publishing as aforesaid, being convicted thereof in due form of law, shall be adjudged guilty of felony

Persons forging, etc., certificates, guilty of felony

15. No fee, reward, or gratuity whatsoever shall be demanded or taken of any of Her Majesty's subjects for receiving any such certificate or duplicate certificate, or for paying interest or dividend, or for any transfer of any sum to be made in pursuance of this Act, upon pain that any officer or person offending by taking or demanding any such fee or reward or gratuity shall for every such offence forfeit the sum of twenty pounds to the party aggrieved, with full costs of suit, to be recovered by action * * * *² or information in any of Her Majesty's Courts of Record at Westminster or Dublin respectively

No fee, etc., to be taken for receiving certificates, or paying dividends, etc., on penalty of 20*l.* with costs of suit

¹ The words "Governor and Company of the" were repealed (U. K.) by 56 & 57 Vict., c. 14 (S. L. R.)

² The words "of debt, bill, plaint" were repealed (U. K.) by 56 and 57 Vict., c. 14 (S. L. R.)

THE HABEAS CORPUS ACT, 1862

(25 & 26 Vict, c 20.)

*An Act respecting the Issue of Writs of Habeas Corpus out of England
into Her Majesty's Possessions abroad*

[16th May, 1862]

[Preamble and enacting words Rep (U K) 56 & 57 Vict, c 14
(S L R)]

Writ not to
issue out of
England into
any colony,
etc, having
a court with
authority to
grant such
writ.

1 No writ of habeas corpus shall issue out of England by authority of any judge or court of justice therein, into any colony or foreign dominion of the Crown where Her Majesty has lawfully established court or courts of justice having authority to grant and issue the said writ, and to ensure the due execution thereof throughout such colony or dominion

Saving of
right of ap-
peal to Her
Majesty in
Council

2 Provided that nothing in this Act contained shall affect or interfere with any right of appeal to Her Majesty in Council now by law existing

RED SEA AND INDIA TELEGRAPH COMPANY

(25 & 26 Vict, c. 39.)

*An Act for enabling the Commissioners of Her Majesty's Treasury to
make Arrangements with the Red Sea and India Telegraph Company*

[17th July, 1862]

WHEREAS in the year one thousand eight hundred and fifty-eight a joint stock company was incorporated under the "Joint Stock Companies Act," 1856, by the name of "The Red Sea and India Telegraph Company, Limited," for the purpose of establishing telegraphic communication between India and England by the Red Sea

and whereas by an agreement dated the eighteenth day of November one thousand eight hundred and fifty-eight, and made between two of the commissioners of Her Majesty's Treasury of the one part, and the said Company of the other part, it was amongst other things provided, that the lords commissioners of Her Majesty's Treasury should guarantee to the Company (subject to such confirmation by Act of Parliament as therein-after mentioned) that during the period of fifty years from the fourth day of August one thousand eight hundred and fifty-eight, the net receipts available for dividend upon each half-yearly statement of accounts, after payment of working expenses as herein-after mentioned,

should be equal to interest or dividend at the rate of four and a half per cent per annum at the least upon the amount of the capital for the time being *bonâ fide* called and paid up for the purpose of the Company's undertakings, not exceeding in any case, except as herein-after mentioned, the sum of eight hundred thousand pounds, and should, if and so often as during the said period of fifty years, upon any half-yearly statement of accounts, the net receipts available for dividend, after the payment of working expenses, should not be equal to interest or dividend at the rate of two and a quarter per cent for the half year upon the above-mentioned amount of capital, pay and make good such deficiency to the Company .

Provided always, that in the calculation of the amount to which the Company were entitled upon that guarantee, all capital paid up in the course of the current half year should be taken to be entitled to interest or dividend at the above-mentioned rate only from the time when the same was so paid up

Provided also, that all amounts paid by the lords commissioners under the guarantee should be a charge on the Company, to be repaid out of the future surplus profits as therein-after provided

and whereas the said Company was afterwards incorporated, and the said agreement confirmed by "the Red Sea and India Telegraph Act, 1859," and by a further Act, intituled "An Act for amending the Red Sea and India Telegraph Act, 1859," and passed in the year one thousand eight hundred and sixty-one, after reciting that doubts were entertained whether the said agreement empowered the said commissioners to give effect to such guarantee except during such time as the line of telegraph of the Company was in working order, and that it was expedient that such doubts should be removed, it was declared that the guarantee contained in the said agreement was not intended to be and was not conditional on the line of telegraph of the Company being in working order

and whereas the line of telegraph laid down by the said Company, herein-after referred to as the Old Company, has ceased to transmit messages

and whereas an arrangement of which an abstract is contained in the schedule to this Act annexed has been entered into between the said commissioners, the Old Company and a new Company incorporated under the name of "The Telegraph to India Company Limited," herein referred to as the New Company, whereby it is agreed that on the New Company complying with certain conditions required by the said commissioners (and which conditions have since been complied with), and in consideration of the New Company discharging all the debts and liabilities of the Old Company, the cables, lines, stations, concessions, and all other the real and personal property of the Old Company

including things in action, should be transferred to the New Company and that in consideration of such transfer the Old Company should in exchange for the guarantee given by the said agreement receive such compensation by way of annuities, but subject to such powers of redemption, as is herein mentioned :

and whereas the foregoing arrangement cannot be carried into effect without the authority of Parliament .

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows

Transfer of
property from
Old Company
to New

1. From and after the passing of this Act, the cables, lines, stations, concessions, and all other the real and personal property of the Old Company, including things in action, shall vest in the New Company for all the estate and interest of the Old Company therein, and the said agreement of the eighteenth day of November one thousand eight hundred and fifty-eight, and all the covenants, and conditions therein contained, shall be deemed to be at an end, but the New Company shall be bound to fulfil the agreement contained in the schedule to this Act

List of share
holders to be
made

2. The books of transfer of shares in the said Old Company shall be closed immediately on the passing of this Act, and within one month from the date of the passing of this Act a list of the several persons then holding shares or stock in the capital of the said Company at the date of such closing, duly authenticated under the corporate seal and by the signature of the secretary of the said Company, shall be delivered to the Governor and Company of the Bank of England, and such list shall set forth the names, descriptions and addresses of all such persons, and the amount of the share or shares held by each respectively, and the amount which will be payable to each in respect of such shares out of the annuity of thirty-six thousand pounds herein-after referred to, and such list so authenticated shall for the purposes of this Act be binding on all persons whatsoever -

Charge upon
consolidated
fund of ter-
minable an-
nuities

3. The Governor and Company of the Bank of England, as soon as possible after such list shall have been delivered to them, shall certify to the commissioners of Her Majesty's Treasury that such list has been so delivered to them, and the said commissioners are hereby authorized to charge and shall thereupon charge, under the authority of this Act, upon the consolidated fund of the United Kingdom, an annuity of thirty-six thousand pounds for forty-six years ending on the fourth day of August one thousand nine hundred and eight, payable in equal moieties half-yearly, the first half-yearly payment to become due on the fourth day of August one thousand eight hundred and sixty-two, and the last half-yearly payment on the fourth day of August one thousand nine hundred and eight, and such half-yearly payments shall be made to the

said Governor and Company for and on account of the several persons in the said lists mentioned in the several and respective accounts therein set forth

4. The proportionate parts of the said annuity as certified in such list as being due to the several persons therein named shall be inscribed in the names of the several parties in books to be provided for the purpose by the said Governor and Company, and all payments becoming due from time to time thereon shall be payable at the Bank of England to the several persons to whom such payment shall from time to time be due half-yearly, in equal moieties on the fourth day of August and fourth day of February, and the said proportionate parts shall be transferable in the books of the said Governor and Company in like manner as all other annuities of like kind chargeable on the consolidated fund of the United Kingdom, and payable by the said Governor and Company, and shall not be liable to stamp duty

5 Immediately after the inscription of the said annuity in the books of the said Governor and Company as aforesaid, the books of transfer, and other books of the Red Sea and India Telegraph Company relating to the shares therein, shall be delivered by the said Company into the custody of the said Governor and Company of the Bank of England to be retained by them

6. The commissioners of the Treasury may at any time redeem the annuity hereby granted on payment of a capital sum which will be sufficient to purchase a Government annuity at the rate of four pounds ten shillings per annum on each one hundred pounds of the stock or capital of the said Old Company for the unexpired residue of the term

7 There shall be paid out of the revenues of India to the account of Her Majesty's Exchequer at the Bank of England in respect of the charge hereby created, by two half-yearly payments on the fourth day of August and fourth day of February in each year respectively, the annual sum of eighteen thousand and twenty-seven pounds, being one-half of the amount of the before-mentioned annuity, and of the cost of management, the first of such half-yearly payments to be made on the fourth day of August one thousand eight hundred and sixty-two and the last on the fourth day of August one thousand nine hundred and eight

SCHEDULE

HEADS OF ARRANGEMENT REFERRED TO IN PREFACE OF ACT

1 That the Old Company be divested of all further responsibility in respect to the affairs of the Red Sea and India Telegraph with a view to transferring the entire concern to the hands of a new Company, on suitable terms and conditions

2 That the present guarantee of $4\frac{1}{2}$ per cent on the paid-up capital of the Old Company be converted into a Government annuity of like amount, payable at the Bank of England, as in the case of other annuities of like kind

3 The commissioners of the Treasury shall have power to redeem the said annuity at any time on payment to the said Company of a capital sum which will be sufficient to purchase a Government annuity at the rate of 4l 10s per annum on each hundred pounds of the stock or capital of the Company for the unexpired residue of the term of their original contract

As regards the New Company

1 That the cables, land lines, instruments, stations, concessions, etc, belonging to the Old Company shall be made over to the New Company free from charge, the New Company discharging all outstanding debts and liabilities of the Old Company

2 That the New Company shall use their best endeavours to repair and restore the whole line from Suez to Kurrachee, and to work it when completed, but shall not have possession until two-thirds of the capital is subscribed, and one-third paid up, and a suitable vessel despatched with not less than 200 miles of new cable on board

3 That the capital of the New Company shall not be less in the first instance than 100,000l with power to increase to 250,000l, if required to complete the restoration of the line

4 That the New Company shall be entitled to a clear dividend out of the profits of 25 per cent on the money paid up by them

5 That any surplus profits shall be applied to reimburse the commissioners of the Treasury for the payments they have made or will have to make annually by way of interest or annuity upon the capital expended by the Old Company, after which any further profits which may accrue shall be applied to the creation of a reserve fund

6 After the restoration of the line any outlay of capital shall be subject to the approval of the commissioners of the Treasury, and the commissioners of the Treasury shall have power to disallow working expenditure as excessive or unreasonable

7 In the event of the failure of the company to restore the line or maintain it in working order, the commissioners of the Treasury shall have power to take it into their own hands again, on repaying the capital actually expended by the New Company

Should the commissioners not exercise this right, the Company shall be at liberty to dispose of the property to reimburse their outlay, the balance after defraying the actual expenditure, to be the property of the commissioners of the Treasury

8 At the expiration of 30 years, the commissioners of the Treasury shall have the right of re-purchasing the line and property on the terms of repayment of the capital expended by the Company

9 The failure in clause seven shall be defined to be the non-working of the line from end to end subject to a just allowance of time for restoration

10 The account shall be audited at the Treasury half-yearly

11 All differences between the commissioners of the Treasury and the Company shall be decided by arbitration

THE FINE ARTS COPYRIGHT ACT, 1862

(25 & 26 Vict., c. 68)

An Act for amending the Law relating to Copyright in Works of the Fine Arts and for repressing the Commission of Fraud in the Production and Sale of such Works

[29th July, 1862]

WHEREAS by law, as now established, the authors of paintings, drawings, and photographs have no copyright in such their works, *

* * *1

¹ 1. The author, being a British subject or resident within the dominions of the Crown, of every original painting, drawing, and photograph which shall be or shall have been made either in the British dominions or elsewhere, and which shall not have been sold or disposed of before the commencement of this Act, and his assigns, shall have the sole and exclusive right of copying, engraving, reproducing, and multiplying such painting or drawing, and the design thereof or such photograph, and the negative thereof, by any means and of any size, for the term of the natural life of such author and seven years after his death

Copyright in paintings, etc, hereafter made or sold to vest in the author for his life and for seven years after his death

Provided, that when any painting or drawing, or the negative of any photograph, shall for the first time after the passing of this Act be sold or disposed of, or shall be made or executed for or on behalf of any other person for a good or a valuable consideration, the person so selling or disposing of or making or executing the same shall not retain the copyright thereof, unless it be expressly reserved to him by agreement in writing, signed, at or before the time of such sale or disposition, by the vendee or assignee of such painting or drawing, or of such negative of a photograph, or by the person for or on whose behalf the same shall be

¹ The rest of the preamble and the enacting words were repealed (U K) by 56 & 57 Vict, c 14 (S L R)

² Sections 1 to 6 and 9 to 12 are repealed by the Copyright Act 1911 (1 & 2 Geo 5, c 46), which will come into operation in British India when it is proclaimed see 1 & 2 Geo 5, c 46, ss 25, 37 (2) (d), 36 and the second schedule

so made or executed, but the copyright shall belong to the vendee or assignee of such painting or drawing, or of such negative of a photograph, or to the person for or on whose behalf the same shall have been made or executed,

nor shall the vendee or assignee thereof be entitled to any such copyright, unless, at or before the time of such sale or disposition, an agreement in writing, signed by the person so selling or disposing of the same, or by his agent duly authorized, shall have been made to that effect.

Copyright not to prevent the representation of the same subjects in other works

¹ 2. Nothing herein contained shall prejudice the right of any person to copy or use any work in which there shall be no copyright, or to represent any scene or object, notwithstanding that there may be copyright in some representation of such scene or object

Copyright to be personal estate
Assignments, licences, etc., to be in writing.

¹ 3. All copyright under this Act shall be deemed personal or moveable estate, and shall be assignable at law, and every assignment thereof, and every licence to use or copy by any means or process the design or work which shall be the subject of such copyright, shall be made by some note or memorandum in writing to be signed by the proprietor of the copyright or by his agent appointed for that purpose in writing

Register of proprietors of copyright in paintings, drawings, and photographs to be kept at Stationers Hall by the officer appointed for the purposes of 5 & 6 Vict., c. 45

¹ 4. There shall be kept at the hall of the Stationers Company, by the officer appointed by the said Company for the purposes of the Copyright Act, 1842, a book or books, entitled "The Register of Proprietors of Copyright in Paintings, Drawings, and Photographs," wherein shall be entered a memorandum of every copyright to which any person shall be entitled under this Act, and also of every subsequent assignment of any such copyright,

and such memorandum shall contain a statement of the date of such agreement or assignment, and of the names of the parties thereto, and of the name and place of abode of the person in whom such copyright shall be vested by virtue thereof, and of the name and place of abode of the author of the work in which there shall be such copyright, together with a short description of the nature and subject of such work, and in addition thereto, if the person registering shall so desire, a sketch, outline, or photograph of the said work,

and no proprietor of any such copyright shall be entitled to the benefit of this Act until such registration,

and no action shall be sustainable nor any penalty be recoverable in respect of anything done before registration

Certain enactments of 5 & 6 Vict., c. 45, to apply to the register to be kept under this Act

¹ 5. The several enactments in the Copyright Act, 1842, contained, with relation to keeping the register book thereby required, and the inspection thereof, the searches therein, and the delivery of certified and stamped copies thereof, the reception of such copies in evidence, the making of false entries in the said book, and the production in

¹ See footnote to section 1, ante

evidence of papers falsely purporting to be copies of entries in the said book, the application to the courts and judges by persons aggrieved by entries in the said book, and the expunging and varying such entries, shall apply to the book or books to be kept by virtue of this Act, and to the entries and assignments of copyright and proprietorship therein under this Act, in such and the same manner as if such enactments were here expressly enacted in relation thereto,

save and except that the forms of entry prescribed by the Copyright Act, 1842, may be varied to meet the circumstances of the case, and that the sum to be demanded by the officer of the said Company of Stationers for making any entry required by this Act shall be one shilling only

¹ 6 If the author of any painting, drawing, or photograph, in which there shall be subsisting copyright, after having sold or disposed of such copyright, or if any other person, not being the proprietor for the time being of copyright in any painting, drawing, or photograph, shall, without the consent of such proprietor, repeat, copy, colourably imitate, or otherwise multiply for sale, hire, exhibition, or distribution, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied for sale, hire, exhibition, or distribution, any such work or the design thereof, or, knowing that any such repetition, copy, or other imitation has been unlawfully made, shall import into any part of the United Kingdom, or sell, publish, let to hire, exhibit, or distribute or offer for sale, hire, exhibition, or distribution, or cause or procure to be imported, sold, published, let to hire, distributed, or offered for sale, hire, exhibition or distribution, any repetition, copy, or imitation of the said work, or of the design thereof, made without such consent as aforesaid, such person for every such offence shall forfeit to the proprietor of the copyright for the time being a sum not exceeding ten pounds,

Penalties on infringement of copyright

and all such repetitions, copies, and imitations made without such consent as aforesaid, and all negatives of photographs made for the purpose of obtaining such copies, shall be forfeited to the proprietor of the copyright

7 No person shall do or cause to be done any or either of the following acts, that is to say,

Penalties on fraudulent productions and sales

first, no person shall fraudulently sign or otherwise affix, or fraudulently cause to be signed or otherwise affixed, to or upon any painting, drawing, or photograph, or the negative thereof, any name, initials, or monogram.

secondly, no person shall fraudulently sell, publish, exhibit, or dispose of, or offer for sale, exhibition, or distribution, any painting, drawing, or photograph, or negative of a photograph, having thereon the name, initials, or monogram of a person who did not execute or make such work

¹ See footnote to section 1, *ante*

thirdly, no person shall fraudulently utter, dispose of, or put off, or cause to be uttered or disposed of, any copy or colourable imitation of any painting, drawing, or photograph, or negative of a photograph, whether there shall be subsisting copyright therein or not, as having been made or executed by the author or maker of the original work from which such copy or imitation shall have been taken

fourthly, where the author or maker of any painting, drawing, or photograph, or negative of a photograph, made either before or after the passing of this Act, shall have sold or otherwise parted with the possession of such work, if any alteration shall afterwards be made therein by any other person, by addition or otherwise, no person shall be at liberty, during the life of the author or maker of such work without his consent, to make or knowingly to sell or publish, or offer for sale, such work or any copies of such work so altered as aforesaid, or of any part thereof, as or for the unaltered works of such author or maker

Every offender under this section shall, upon conviction, forfeit to the person aggrieved a sum not exceeding ten pounds, or not exceeding double the full price, if any, at which all such copies, engravings, imitations or altered works shall have been sold or offered for sale,

and all such copies, engravings, imitations, or altered works shall be forfeited to the person, or the assigns or legal representatives of the person, whose name, initials, or monogram shall be so fraudulently signed or affixed thereto, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid

Provided always, that the penalties imposed by this section shall not be incurred unless the person whose name, initials, or monogram shall be so fraudulently signed or affixed, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid, shall have been living at or within twenty years next before the time when the offence may have been committed

8. All pecuniary penalties which shall be incurred, and all such unlawful copies, imitations, and all other effects and things as shall have been forfeited by offenders, pursuant to this Act, ¹[and pursuant to any Act for the protection of copyright engravings] may be recovered by the person herein-before ¹[and in any such Act as aforesaid] empowered to recover the same respectively, and herein-after called the complainant or the complainer, as follows —

in England and Ireland, either by action against the party offending, or by summary proceeding before any two justices having jurisdiction where the party offending resides

¹ The words within brackets in section 8 are repealed by the Copyright Act 1911 (1 & 2 Geo 5, c. 46), which will come into operation in British India when proclaimed see 1 & 2 Geo 5, c. 46, ss 25, 37 (2) (d), 36 and the second schedule

in Scotland, by action before the Court of Session in ordinary form,
or by summary action before the sheriff of the county where the
offence may be committed or the offender resides * * * *¹,

and any judgment so to be pronounced by the sheriff in such
summary application shall be final and conclusive, and not subject to
review by ^{*2} suspension, reduction, or otherwise

³ 9 In any action in any of Her Majesty's Superior Courts of Record at Westminster and in Dublin for the infringement of any such copy-right as aforesaid, it shall be lawful for the Court in which such action is pending, if the Court be then sitting, or, if the Court be not sitting, then for a judge of such Court, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such Court or judge may seem fit

³ 10. All repetitions, copies, or imitations of paintings, drawings, or photographs, wherein or in the design whereof there shall be subsisting copyright under this Act, and all repetitions, copies, and imitations of the design of any such painting or drawing, or of the negative of any such photograph, which, contrary to the provisions of this Act, shall have been made in any foreign state, or in any part of the British dominions are hereby absolutely prohibited to be imported into any part of the United Kingdom, except by or with the consent of the proprietor of the copyright thereof, or his agent authorized in writing,

and if the proprietor of any such copyright, or his agent, shall declare that any goods imported are repetitions, copies, or imitations of any such painting, drawing, or photograph, or of the negative of any such photograph, and so prohibited as aforesaid, then such goods may be detained by the officers of Her Majesty's Customs

³ 11 If the author of any painting, drawing, or photograph, in which there shall be subsisting copyright, after having sold or otherwise disposed of such copyright, or if any other person, not being the proprietor for the time being of such copyright, shall, without the consent of such proprietor, repeat, copy, colourably imitate, or otherwise multiply, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied, for sale, hire, exhibition, or distribution, any such work or the design thereof, or the negative of any such photograph, or shall import or cause to be imported into any part of the United Kingdom, or sell, publish, let to hire, exhibit, or distribute, or offer for sale, hire, exhibition, or distribution, or cause or procure to be sold, published, let to hire, exhibited, or distributed or offered for sale, hire,

^{1, 2} The words "who upon proof" were repealed (U K) by 56 & 57 Vict., c. 14 (S L R)

³ See footnote to section 1, *ante*

liable in expenses" and "advocation"

Superior
Courts of
Record in
which any
action is
pending may
make an
order for an
injunction,
inspection, or
account

Importation
of pirated
works
prohibited

Right to
bring action
for damages,
etc

exhibition, or distribution, any repetition, copy, or imitation of such work, or the design thereof, or the negative of any such photograph, made without such consent as aforesaid,

then every such proprietor, in addition to the remedies hereby given for the recovery of any such penalties, and forfeiture of any such things as aforesaid, may recover damages by and in a special action on the case, to be brought against the person so offending, and may in such action recover and enforce the delivery to him of all unlawful repetitions, copies, and imitations, and negatives of photographs, or may recover damages for the retention or conversion thereof

Provided, that nothing herein contained, nor any proceeding, conviction, or judgment, for any act hereby forbidden shall affect any remedy which any person aggrieved by such act may be entitled to either at law or in equity

PROVISIONS of
7 & 8 Vict.,
c. 12, to be
considered as
included in
this Act

12.¹ This Act shall be considered as including the provisions of the International Copyright Act, 1844, in the same manner as if such provisions were part of this Act. 7 & 8 Vict., c. 12

THE COLONIAL LETTERS PATENT ACT, 1863

(26 & 27 Vict., c. 76.)

An Act to determine the Time at which Letters Patent shall take Effect in the Colonies

[28th July, 1863]

WHEREAS Her Majesty hath from time to time caused to be made under the Great Seal of the United Kingdom of Great Britain and Ireland divers letters patent intended to take effect within Her Majesty's colonies and possessions beyond the seas

and whereas doubts are entertained respecting the period at which such letters patent have taken or may hereafter take effect within such colonies and possessions * * * * *

Existing
letters patent
not to take
effect in
colonies till
published or
acted on.
Acts done
under such
letters patent
valid

1. No such letters patent heretofore made shall (unless otherwise provided therein or by other lawful authority) be deemed to have taken or shall take effect in any such colony or possession as aforesaid until the same were or shall be publicly made known or acted upon therein

Provided, that any act or thing heretofore done or purporting to have been done in pursuance or under authority of such letters patent

¹ This section is repealed by the Copyright Act, 1911 (1 & 2 Geo 5, c. 46), which will come into operation in British India when it is proclaimed see 1 & 2 Geo 5, c. 46, ss 25, 37 (2) (d), 36 and the second schedule For a previous partial repeal of the section see 49 & 50 Vict., c. 33 s. 12 (also repealed by 1 & 2 Geo 5, c. 46)

² The rest of the preamble and the enacting words were repealed (U. K.) by 56 & 57 Vict., c. 14 (S. L. R.)

'the term "any of Her Majesty's ships of war" includes any of Her Majesty's vessels of war, and any hired armed ship or vessel in Her Majesty's service

the term "officers and crew" includes flag officers, commanders, and other officers, engineers, seamen, marines, soldiers, and others on board any of Her Majesty's ships of war

the term "ship" includes vessel and boat, with the tackle, furniture, and apparel of the ship, vessel, or boat

the term "ship papers" includes all books, passes, sea briefs, charter parties, bills of lading, cockets, letters and other documents and writings delivered up or found on board a captured ship

the term "goods" includes all such things as are by the course of Admiralty and law of nations the subject of adjudication as prize (other than ships)

I —PRIZE COURTS.

High Court of Admiralty and other courts to be prize courts for purposes of Act.

3 The High Court of Admiralty, and every court of Admiralty or of Vice-Admiralty, or other court exercising Admiralty jurisdiction in Her Majesty's dominions, for the time being authorized to take cognizance of and judicially proceed in matters of prize, shall be a prize court within the meaning of this Act

Every such court, other than the High Court of Admiralty, is comprised in the term Vice-Admiralty prize court when hereafter used in this Act

High Court of Admiralty

Jurisdiction of High Court of Admiralty

4. The High Court of Admiralty shall have jurisdiction throughout Her Majesty's dominions as a prize court

The High Court of Admiralty as a prize court shall have power to enforce any order or decree of a Vice-Admiralty prize court, and any order or decree of the Judicial Committee of the Privy Council in a prize appeal

Appeal, Judicial Committee

Appeal to Queen in Council, in what cases

5 An appeal shall lie to Her Majesty in Council from any order or decree of a prize court, as of right in case of a final decree, and in other cases with the leave of the court making the order or decree

Every appeal shall be made in such manner and form and subject to such regulations (including regulations as to fees, costs, charges, and expenses) as may for the time being be directed by Order in Council and in the absence of any such Order, or so far as any such Order does not extend, then in such manner and form and subject to such regulations as are for the time being prescribed or in force respecting maritime causes of appeal

6 The Judicial Committee of the Privy Council shall have jurisdiction to hear and report on any such appeal, and may therein exercise all such powers as for the time being appertain to them in respect of appeals from any court of Admiralty jurisdiction and all such powers as are under this Act vested in the High Court of Admiralty, and all such powers as were wont to be exercised by the Commissioners of Appeal in prize causes

Jurisdiction of Judicial Committee in prize appeals

7 All processes and documents required for the purposes of any such appeal shall be transmitted to and shall remain in the custody of the registrar of Her Majesty in prize appeals

Custody of processes, papers, etc

8 In every such appeal the usual inhibition shall be extracted from the registry of Her Majesty in prize appeals within three months after the date of the order or decree appealed from, if the appeal be from the High Court of Admiralty, and within six months after that date, if it be from a Vice-Admiralty prize court

Limit of time for appeal

The Judicial Committee may, nevertheless on sufficient cause shown, allow the inhibition to be extracted and the appeal to be prosecuted after the expiration of the respective periods aforesaid

Vice-Admiralty Prize Courts

9 Every Vice-Admiralty prize court shall enforce within its jurisdiction all orders and decrees of the Judicial Committee in prize appeals, and of the High Court of Admiralty in prize causes

Enforcement of orders of Judicial Committee and High Court

10 Her Majesty in Council may grant to the judge of any Vice-Admiralty prize court a salary not exceeding five hundred pounds a year, payable out of money provided by Parliament, subject to such regulations as seem meet

Salaries of judges of Vice Admiralty prize courts

A judge to whom a salary is so granted shall not be entitled to any further emolument, arising from fees or otherwise, in respect of prize business transacted in his court

An account of all such fees shall be kept by the registrar of the court, and the amount thereof shall be carried to and form part of the Consolidated Fund of the United Kingdom

Account and application of fees

11 In accordance, as far as circumstances admit, with the principles and regulations laid down in The Superannuation Act, 1859, Her Majesty in Council may grant to the judge of any Vice-Admiralty prize court an annual or other allowance, to take effect on the termination of his service, and to be payable out of money provided by Parliament

Retiring pensions of judges, as in 22 Vict., c 26

12 The registrar of every Vice-Admiralty prize court shall, on the first day of January and first day of July in every year, make out a return (in such form as the Lords of the Admiralty from time to time direct) of all cases adjudged in the court since the last half-yearly

Returns from Vice Admiralty prize courts.

return, and shall with all convenient speed send the same to the registrar of the High Court of Admiralty, who shall keep the same in the registry of that court and who shall, as soon as conveniently may be, send a copy of the returns of each half-year to the Lords of the Admiralty, who shall lay the same before both Houses of Parliament.

General

13. [*Rep. 57 & 58 Vict, c 39, s 3 (3), which substituted another section*]

Prohibition
of officer of
prize court
acting as
proctor, etc.,
in prize
causes.

14. It shall not be lawful for any registrar, marshal, or other officer of any prize court, or for the registrar of Her Majesty in prize appeals, directly or indirectly to act or be in any manner concerned as advocate, proctor, solicitor, or agent or otherwise in any prize cause or appeal, on pain of dismissal or suspension from office, by order of the court or of the Judicial Committee (as the case may require)

Prohibition
of proctors
being con-
cerned for
adverse part-
ies in a cause

15. It shall not be lawful for any proctor or solicitor, or person practising as a proctor or solicitor, being employed by a party in a prize cause or appeal, to be employed or concerned, by himself or his partner, or by any other person, directly or indirectly, by or on behalf of any adverse party in that cause or appeal, on pain of exclusion or suspension from practice in prize matters by order of the court or of the Judicial Committee (as the case may require)

II —PROCEDURE IN PRIZE CAUSES

Proceedings by Captors

Custody of
ships taken as
prize

16 Every ship taken as prize, and brought into port within the jurisdiction of a prize court, shall forthwith and without bulk broken be delivered up to the marshal of the court

If there is no such marshal, then the ship shall be in like manner delivered up to the principal officer of customs at the port

The ship shall remain in the custody of the marshal or of such officer subject to the orders of the court

Bringing in
of ship
papers

17. The captors shall, with all practicable speed after the ship is brought into port, bring the ship papers into the registry of the court

The officer in command, or one of the chief officers of the capturing ship, or some other person who was present at the capture, and saw the ship papers delivered up or found on board, shall make oath that they are brought in as they were taken, without fraud addition, subduction, or alteration, or else shall account on oath to the satisfaction of the court for the absence or altered condition of the ship papers or any of them

Where no ship papers are delivered up or found on board the captured ship, the officer in command, or one of the chief officers of the capturing ship or some other person who was present at the capture, shall make oath to that effect

18 As soon as the affidavit as to ship papers is filed, a monition shall issue, returnable within twenty days from the service thereof, citing all persons in general to show cause why the captured ship should not be condemned Issue of monition

19. The captors shall, with all practicable speed after the captured ship is brought into port, bring three or four of the principal persons belonging to the captured ship before the judge of the court or some person authorized in this behalf, by whom they shall be examined on oath on the standing interrogatories Examinations on standing interrogatories.

The preparatory examinations on the standing interrogatories shall, if possible, be concluded within five days from the commencement thereof

20. After the return of the monition the court shall on production of the preparatory examinations and ship papers proceed with all convenient speed either to condemn or to release the captured ship Adjudication by court

21. Where on production of the preparatory examinations and ship papers it appears to the court doubtful whether the captured ship is good prize or not, the court may direct further proof to be adduced either by affidavit or by examination of witnesses with or without pleadings or by production of further documents, and on such further proof being adduced the court shall with all convenient speed proceed to adjudication Further proof

22 The foregoing provisions as far as they relate to the custody of the ship and to examination on the standing interrogatories shall not apply to ships of war taken as prize Custody, etc., of ships of war

Claim

23. At any time before final decree made in the cause, any person claiming an interest in the ship may enter in the registry of the court a claim verified on oath Entry of claim

Within five days after entering the claim the claimant shall give security for costs in the sum of sixty pounds, but the court shall have power to enlarge the time for giving security or to direct security to be given in a larger sum if the circumstances appear to require it Security for costs

Appraisement

24 The court may if it thinks fit at any time direct that the captured ship be appraised Power to court to direct

Every appraisement shall be made by competent persons sworn to make the same according to the best of their skill and knowledge appraisement.

Delivery on Bail.

Power to
court to
direct
delivery to
claimant on
bail

25. After appraisement the court may if it thinks fit direct that the captured ship be delivered up to the claimant on his giving security to the satisfaction of the court to pay to the captors the appraised value thereof in case of condemnation.

Sale

Power to
court to order
sale

26 The court may at any time if it thinks fit, on account of the condition of the captured ship or on the application of a claimant, order that the captured ship be appraised as aforesaid (if not already appraised) and be sold

Sale on
condemna-
tion

27. On or after condemnation the court may if it thinks fit order that the ship be appraised as aforesaid (if not already appraised) and be sold

Sales, how to
be made

28 Every sale shall be made by or under the superintendence of the marshal of the court or of the officer having the custody of the captured ship

Payment of
proceeds of
sale, or ap-
praised value
of ship deli-
vered to
claimant on
bail, to Pay-
master Gene-
ral or official
accountant,
subject to
regulations
by Order in
Council as to
custody and
disposal.

29 The proceeds of any sale made either before or after condemna-
tion, and after condemnation the appraised value of the captured ship in
case she has been delivered up to a claimant on bail, shall be paid under
an order of the court either into the Bank of England to the credit of
Her Majesty's Paymaster General or into the hands of an official
accountant (belonging to the commissariat or some other department)
appointed for this purpose by the * * * *¹ Treasury or by
* * * *¹ the Admiralty, subject in either case to such regulations
as may from time to time be made, by Order in Council, as to the custody
and disposal of money so paid

Small armed Ships

Several small
ships may be
included in
one adjudica-
tion

30 The captors may include in one adjudication any number, not exceeding six, of armed ships, not exceeding one hundred tons each, taken within three months next before institution of proceedings

Goods

Application
of foregoing
provisions to
prize goods

31 The foregoing provisions relating to ships shall extend and apply, *mutatis mutandis*, to goods taken as prize on board ship, and the court may direct such goods to be unladen, inventoried, and warehoused

Monition to Captors to proceed

Power to
court to
issue moni-
tion

32 If the captors fail to institute or to prosecute with effect proceedings for adjudication, a monition shall, on the application of a claimant,

¹ The words " Commissioners of Her Majesty's " and " the Lords of " were repealed (U K) by 56 & 57 Vict, c 14 (S L R)

issue against the captors returnable within six days from the service thereof, citing them to appear and proceed to adjudication

to captors to
proceed to
adjudication

and on the return thereof the court shall either forthwith proceed to adjudication, or direct further proof to be adduced as aforesaid and then proceed to adjudication

Claim on Appeal

33 Where any person, not an original party in the cause, intervenes on appeal, he shall enter a claim, verified on oath, and shall give security for costs

Person in-
tervening on
appeal to
enter claim
and give
security for
costs

III —SPECIAL CASES OF CAPTURE

Land Expeditions

34 Where, in an expedition of any of Her Majesty's Naval or Naval and Military Forces against a fortress or possession on land, goods belonging to the State of the enemy or to a public trading company of the enemy exercising powers of government are taken in the fortress or possession, or a ship is taken in waters defended by or belonging to the fortress or possession, a prize court shall have jurisdiction as to the goods or ship so taken, and any goods taken on board the ship, as in case of prize

Jurisdiction
of prize court
in case of
capture in
land expedi-
tion

Conjunct Capture with Ally

35 Where any ship or goods is or are taken by any of Her Majesty's Naval or Naval and Military Forces while acting in conjunction with any forces of any of Her Majesty's allies, a prize court shall have jurisdiction as to the same as in case of prize, and shall have power, after condemnation, to apportion the due share of the proceeds to Her Majesty's ally, the proportionate amount and the disposition of which share shall be such as may from time to time be agreed between Her Majesty and Her Majesty's ally

Jurisdiction
of prize court
in case of
prize taken in
expedition
with ally

Joint Capture

aforesaid, and show sufficient cause to the court why their petition was not presented before condemnation.

Provided, that nothing in the present section shall extend to the asserted interest of a flag officer claiming to share by virtue of his flag

Offences against Law of Prize

In case of offence by captors, prize may be reserved for Crown

37. A prize court on proof of any offence against the law of nations, or against this Act, or any Act relating to naval discipline, or against any Order in Council or royal proclamation, or of any breach of Her Majesty's instructions relating to prize or of any act of disobedience to the orders of * * * *^{*1} the Admiralty, or to the command of a superior officer, committed by the captors in relation to any ship or goods taken as prize, or in relation to any person on board any such ship, may, on condemnation, reserve the prize to Her Majesty's disposal, notwithstanding any grant that may have been made by Her Majesty in favour of captors

Pre-emption

Purchase by Admiralty for public service of stores on board foreign ships carrying stores to an enemy, and brought within a port of the United Kingdom

38 Where a ship of a foreign nation passing the seas laden with naval or victualling stores intended to be carried to a port of any enemy of Her Majesty is taken and brought into a port of the United Kingdom, and the purchase for the service of Her Majesty of the stores on board the ship appears to * * * *^{*1} the Admiralty expedient without the condemnation thereof in a prize court, in that case * * *^{*1} the Admiralty may purchase on the account or for the service of Her Majesty, all or any of the stores on board the ship, and the Commissioners of Customs may permit the stores purchased to be entered and landed within any port

Capture by Ship other than a Ship of War

Prizes taken by ships other than ships of war to be droits of Admiralty.

39 Any ship or goods taken as prize by any of the officers and crew of a ship other than a ship of war of Her Majesty shall, on condemnation, belong to Her Majesty in her office of Admiralty

IV --PRIZE SALVAGE

Salvage to re captors of British ship or goods from enemy

40 Where any ship or goods belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is or are retaken from the enemy by any of Her Majesty's ships of war, the same shall be restored by decree of a prize court to the owner, on his paying as prize salvage one-eighth part of the value of the prize, to be decreed and ascertained by the court, or such sum, not exceeding one-eighth part of the estimated value of the prize, as may be agreed on between the owner and the re-captors and approved by order of the court

¹ The words " the Lords of " were repealed (U K) by 56 & 57 Vict , c 14 (S L R)

Provided, that where the re-capture is made under circumstances of special difficulty or danger, the prize court may, if it thinks fit, award to the re-captors as prize salvage a larger part than one-eighth part, but not exceeding in any case one-fourth part, of the value of the prize

Provided also, that where a ship after being so taken is set forth or used by any of Her Majesty's enemies as a ship of war, this provision for restitution shall not apply, and the ship shall be adjudicated on as in other cases of prize

41. Where a ship belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is re-taken from the enemy by any of Her Majesty's ships of war, she may, with the consent of the re-captors, prosecute her voyage, and it shall not be necessary for the re-captors to proceed to adjudication till her return to a port of the United Kingdom

Permission to re captured ship to proceed on voyage, and postponement of adjudication

The master or owner, or his agent, may, with the consent of the re-captors, unload and dispose of the goods on board the ship before adjudication

In case the ship does not, within six months, return to a port of the United Kingdom, the re-captors may nevertheless institute proceedings against the ship or goods in the High Court of Admiralty, and the court may thereupon award prize salvage as aforesaid to the re-captors and may enforce payment thereof, either by warrant of arrest against the ship or goods, or by monition and attachment against the owner.

Proceedings in case return of ship is delayed

The decree shall be subject to appeal as other decrees of the court

Payment of prize bounty awarded out of money provided by Parliament

44. On production of an official copy of the decree the * * *

* *¹ Treasury shall, out of money provided by Parliament, pay the amount of prize bounty decreed, in such manner as any Order in Council may from time to time direct

VI—MISCELLANEOUS PROVISIONS

Ransom

Power for regulating ransom by Order in Council

45 Her Majesty in Council may from time to time in relation to any war make such Orders as may seem expedient according to circumstances for prohibiting or allowing wholly or in certain cases or subject to any conditions or regulations or otherwise, as may from time to time seem meet, the ransoming or the entering into any contract or agreement for the ransoming of any ship or goods belonging to any of Her Majesty's subjects and taken as prize by any of Her Majesty's enemies

Jurisdiction of High Court of Admiralty

Any contract or agreement entered into, and any bill, bond, or other security given for ransom of any ship or goods, shall be under the exclusive jurisdiction of the High Court of Admiralty as a prize court (subject to appeal to the Judicial Committee of the Privy Council) and if entered into or given in contravention of any such Order in Council shall be deemed to have been entered into or given for an illegal consideration

Ransoming in contravention of Order in Council

If any person ransoms or enters into any contract or agreement for ransoming any ship or goods in contravention of any such Order in Council, he shall for every such offence be liable to be proceeded against in the High Court of Admiralty, at the suit of Her Majesty in her office of Admiralty, and on conviction to be fined, in the discretion of the court, any sum not exceeding five hundred pounds

Convoy

Punishment of masters of merchant vessels under convoy disobeying orders or deserting convoy

46 If the master or other person having the command of any ship of any of Her Majesty's subjects under the convoy of any of Her Majesty's ships of war wilfully disobeys any lawful signal, instruction, or command of the commander of the convoy, or without leave deserts the convoy, he shall be liable to be proceeded against in the High Court of Admiralty, at suit of Her Majesty in her office of Admiralty, and upon conviction to be fined, in the discretion of the court, any sum not exceeding five hundred pounds, and to suffer imprisonment for such time, not exceeding one year, as the court may adjudge

¹ The words "Commissioners of Her Majesty's" were repealed (U. K.) by 56 & 57 Vict., c. 14 (S. L. R.)

Customs Duties and Regulations

47 All ships and goods taken as prize and brought into a port of the United Kingdom shall be liable to and be charged with the same rates and charges and duties of Customs as under any Act relating to the Customs may be chargeable on other ships and goods of the like description, Prize ships and goods liable to Customs duties and forfeiture, as if imported

and all goods brought in as prize which would on the voluntary importation thereof be liable to forfeiture or subject to any restriction under the laws relating to the Customs shall be deemed to be so liable and subject, unless the Commissioners of Customs see fit to authorize the sale or delivery thereof for home use or exportation, unconditionally, or subject to such conditions and regulations as they may direct

48 Where any ship or goods taken as prize is or are brought into a port of the United Kingdom, the master or other person in charge or command of the ship which has been taken or in which the goods are brought shall on arrival at such port bring to at the proper place of discharge, and shall, when required by any officer of Customs, deliver an account in writing under his hand concerning such ship and goods, giving such particulars relating thereto as may be in his power, and shall truly answer all questions concerning such ship or goods asked by any such officer, and in default shall forfeit a sum not exceeding one hundred pounds, such forfeiture to be enforced as forfeitures for offences against the laws relating to the Customs are enforced, Regulations of Customs to be observed as to prize ships and goods

and every such ship shall be liable to such searches as other ships are liable to, and the officers of the Customs may freely go on board such ship and bring to the Queen's warehouse any goods on board the same, subject, nevertheless, to such regulations in respect of ships of war belonging to Her Majesty as shall from time to time be issued by the
* * * * *¹ Treasury

49 Goods taken as prize may be sold either for home consumption or for exportation, Sale of prize goods

and if in the former case the proceeds thereof, after payment of duties of Customs, are insufficient to satisfy the just and reasonable claims thereon, the * * * * *¹ Treasury may remit the whole or such part of the said duties as they see fit Power of Treasury to remit duties

Perjury

50 If any person wilfully and corruptly swears, declares, or affirms falsely in any prize cause or appeal, or in any proceeding under this Act or in respect of any matter required by this Act to be verified on

¹ The words "Commissioners of Her Majesty's" were repealed (U. K.) by 57 & 58 Vict., c. 14 (S. L. R.)

subornation of perjury or suborns any other person to do so, he shall be deemed guilty of perjury, or of subornation of perjury (as the case may be), and shall be liable to be punished accordingly

Limitation of Actions, etc

Actions against persons executing Act not to be brought without notice, etc, nor after a certain time 51. Any action or proceeding shall not lie in any part of Her Majesty's dominions against any person acting under the authority or in the execution or intended execution or in pursuance of this Act, for any alleged irregularity or trespass, or other act or thing done or omitted by him under this Act, unless notice in writing (specifying the cause of the action or proceeding) is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the action or proceeding nor unless the action or proceeding is commenced within six months next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within six months next after the doing of such damage has ceased

General issue In any such action the defendant may plead generally that the act or thing complained of was done or omitted by him when acting under the authority or in the execution or intended execution or in pursuance of this Act, and may give all special matter in evidence;

Tender of amends and the plaintiff shall not succeed if tender of sufficient amends is made by the defendant before the commencement of the action,

Payment into court and in case no tender has been made, the defendant may, by leave of the court in which the action is brought, at any time pay into court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the court as may be had and made on the payment of money into the court in an ordinary action,

Costs and if the plaintiff does not succeed in the action, the defendant shall receive such full and reasonable indemnity as to all costs, charges, and expenses incurred in and about the action as may be taxed and allowed by the proper officer, subject to review,

and though a verdict is given for the plaintiff in the action, he shall not have costs against the defendant, unless the judge before whom the trial is had certifies his approval of the action

Actions against persons in Navy or Admiralty. Any such action or proceeding against any person in Her Majesty's Naval Service, or in the employment of * * * *¹ the Admiralty, shall not be brought or instituted elsewhere than in the United Kingdom

Petitions of Right

Jurisdiction of High Court 52 - A petition of right, under The Petitions of Right Act, 1860, may, if the suppliant thinks fit, be intituled in the High Court of

¹ The words " the Lords of " were repealed (U K) by 56 & 57 Vict , c 14 (S L R)

Admiralty, in case the subject matter of the petition or any material part thereof arises out of the exercise of any belligerent right on behalf of the Crown, or would be cognizable in a prize court within Her Majesty's dominions if the same were a matter in dispute between private persons

of Admiralty on petitions of right in certain cases, as in 23 & 24 Vict., c. 34

Any petition of right under the last-mentioned Act, whether intituled in the High Court of Admiralty or not, may be prosecuted in that court, if the Lord Chancellor thinks fit so to direct

The provisions of this Act relative to appeal, and to the framing and approval of general orders for regulating the procedure and practice of the High Court of Admiralty, shall extend to the case of any such petition of right intituled or directed to be prosecuted in that court,

Appeal, and general orders regulating procedure

and subject thereto all the provisions of The Petitions of Right Act, 1860, shall apply *mutatis mutandis* in the case of any such petition of right, and for the purposes of the present section the terms "court" and "judge" in that Act shall respectively be understood to include and to mean the High Court of Admiralty and the judge thereof, and other terms shall have the respective meanings given to them in that Act

23 & 24 Vict., c. 34, to apply

Orders in Council

53 Her Majesty in Council may from time to time make such Orders in Council as seem meet for the better execution of this Act

Power to make Orders in Council.

54 Every Order in Council under this Act shall be published in the London Gazette, and shall be laid before both Houses of Parliament within thirty days after the making thereof if Parliament is then sitting, and if not then within thirty days after the next meeting of Parliament

Orders in Council to be gazetted, etc

Savings

55 Nothing in this Act shall—

- (1) give to the officers and crew of any of Her Majesty's ships of war any right or claim in or to any ship or goods taken as prize or the proceeds thereof, it being the intent of this Act that such officers and crews shall continue to take only such interest (if any) in the proceeds of prizes as may be from time to time granted to them by the Crown, or
- (2) affect the operation of any existing treaty or convention with any foreign power, or
- (3) take away or abridge the power of the Crown to enter into any treaty or convention with any foreign power containing any stipulation that may seem meet concerning any matter to which this Act relates, or

Saving for rights of Crown, effect of treaties, etc

- (4) take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of Her Majesty the Queen in right of her Crown, or in right of her office of Admiralty, or any right or power of the Lord High Admiral of the United Kingdom, or of the Commissioners for executing the office of Lord High Admiral, or
- (5) take away, abridge, or control, further or otherwise than as expressly provided by this Act, the jurisdiction or authority of a prize court to take cognizance of and judicially proceed upon any capture, seizure, prize, or reprisal of any ship or goods, and to hear and determine the same, and, according to the course of Admiralty and the law of nations, to adjudge and condemn any ship or goods or any other jurisdiction or authority of or exerciseable by a prize court

56. [*Rep as to U K 56 & 57 Vict, c 14 (S L R) Omitted as being spent*]

INDIA OFFICE SITE

(27 & 28 Vict, c 51.)

An Act to vest the Site of the India Office in Her Majesty for the Service of the Government of India

[25th July, 1864]

WHEREAS under or by virtue of the powers and provisions of the Acts following, or some of them, namely, the Acts of the eighteenth and nineteenth years of Her Majesty, chapter ninety-five, the twenty-second and twenty-third years of Her Majesty, chapter nineteen, the twenty-fourth and twenty-fifth years of Her Majesty, chapters thirty-three and eighty-eight, and the twenty-fifth and twenty-sixth years of Her Majesty, chapter seventy-four (being the Acts for the extension of the public offices in Downing Street), the land described in the schedule to this Act, together with other land, has been purchased or otherwise acquired by and is now vested in the Commissioners of Her Majesty's Works and Public Buildings And whereas the Secretary of State in Council of India has proposed to purchase the said land described in the schedule to this Act as a site for offices of his department for a sum of eighty-six thousand seven hundred and sixty-five pounds seventeen shillings and four pence, and parts of the same land were acquired by the said Commissioners of Her Majesty's Works and Public Buildings with a view to such proposed purchase and the purchase monies for such last-mentioned parts, amounting in the whole to the sum of thirty-three

thousand two hundred and twenty pounds seventeen shillings and seven pence, were in fact provided and paid by the Secretary of State in Council of India. And whereas it is expedient that on payment of the balance of the price aforesaid the said land described in the said schedule to this Act should be transferred to and vested in Her Majesty for the service of the Government of India, as herein-after mentioned. Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows —

1 On payment by the Secretary of State in Council of India into the Bank of England to the account of the Consolidated Fund of the United Kingdom of Great Britain and Ireland of the sum of fifty-three thousand five hundred and forty-four pounds nineteen shillings and nine pence, all the land described in the schedule to this Act shall (subject as in the same schedule is mentioned) become and remain vested in Her Majesty, her heirs and successors for the service of the Government of India, according to the provisions of the Act of the twenty-first and twenty-second years of Her Majesty, chapter one hundred and six, for all the estate and interest therein of the said Commissioners of Her Majesty's Works and Public Buildings

On payment of 53,544l 19s 9d by Secretary of State of India the land described in schedule to become vested in Her Majesty, etc

2 The said land, when so vested in Her Majesty, shall be and continue liable to the payment of eleven thirty-fifth parts of all the parochial rates and taxes to which the entirety of the land acquired by the said Commissioners of Her Majesty's Works and Public Buildings under or by virtue of the said Acts for the extension of the public offices is or shall be by law subject and liable

The land, when so vested, to continue liable to the payment of a portion of rates and taxes

3 Nothing whatever shall be built on any part of the great quadrangle delineated on the plan referred to in the said schedule to this Act, without the mutual consent of the Secretary of State in Council of India and the first Commissioner of Her Majesty's Works and Public Buildings for the time being

Nothing to be built on the great quadrangle

The SCHEDULE above referred to

All the piece of land containing sixty-one thousand three hundred and forty superficial feet or thereabouts, situate in the parish of Saint Margaret in the city and liberty of Westminster in the county of Middlesex, abutting on the west on Saint James' Park, on the north partly on Saint James' Park and partly on other land acquired by the Commissioners of Her Majesty's Works and Public Buildings under the above-mentioned Acts, on the east on other land also acquired by the said Commissioners under the same Acts, and on the south on Charles Street and on a passage leading from Saint James' Park to Charles

Street as the same land is delineated and described on a plan signed by the Right Hon'ble William Francis Cowper, the first Commissioner of Her Majesty's Works and Public Buildings, and by the Right Hon'ble Sir Charles Wood, Baronet, one of Her Majesty's Principal Secretaries of State, and now deposited, or intended to be forthwith deposited, among the records of Her Majesty's court of Exchequer, and coloured red on the same plan; subject nevertheless to the maintenance of a foot and carriage way into the great quadrangle at the place marked on the said plan to the satisfaction of the Commissioners for the time being of Her Majesty's Works and Public Buildings, so long as the same shall be required by the same Commissioners

THE INDIAN HIGH COURTS ACT, 1865 ¹

(28 & 29 Vict., c. 15.)

An Act to extend the Term for granting fresh Letters Patent for the High Courts in India, and to make further Provision respecting the Territorial Jurisdiction of the said Courts

[7th April, 1865]

[Preamble reciting 24 & 25 Vict., c. 104, and enacting words *Rep* 56 & 57 Vict., c. 14 (S L R)]

1. [*Rep* 56 & 57 Vict., c. 14 (S L R)]

2 [*Rep* 41 & 42 Vict., c. 79 (S L R)]

3 It shall be lawful for the Governor General of India in Council, by order, from time to time to transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts established or to be established under the said Act, and to authorize and empower any high court to exercise all or any portion of the jurisdiction and powers conferred or to be conferred on it by Her Majesty's letters patent establishing the same, or any other letters patent issued by Her Majesty under the provisions of the Indian High Courts Act, 1861, ^{24 & 25 Vict., c. 104} within any such portions of Her Majesty's dominions in India, not included within the limits of the Presidency or place or places for which such high court was established as the said Governor General in Council may from time to time determine, and also to exercise any such jurisdiction in respect of Christian subjects of Her Majesty resident within the dominions of such of the Princes and States of India in alliance with Her Majesty as the said Governor General in Council may, in manner aforesaid, from time to time determine, anything in the Indian High Courts Act, 1861, notwithstanding

Power to Governor General in Council to alter local limits of jurisdiction of high courts, and to authorize the exercise of jurisdiction beyond the limits of the Presidency, etc., and in respect of Christian subjects within the dominions of States of India in alliance with Her Majesty

¹ For collective short title of the Indian High Courts Acts of 1861, 1865 and 1911, see 1 & 2 Geo 5, c. 18, s. 5

4. Whenever any such Order has been passed by the Governor General in Council, he shall transmit to the Secretary of State for India an authentic copy thereof,

Disallowance
of orders of
Governor
General

and it shall be lawful for Her Majesty to signify, through the Secretary of State for India in Council, her disallowance of such Order,

and such disallowance shall make void and annul such Order from and after the day on which the Governor General shall make known by proclamation, or by signification to his Council, that he has received the notification of such disallowance by Her Majesty

Provided always, that all acts, proceedings, and judgments done, taken, or given by such high courts and not set aside by any competent authority, before the promulgation or signification as aforesaid of such disallowance by Her Majesty, shall be deemed to be and to have been valid and effectual for all purposes whatever, such disallowance notwithstanding

5. [*Rep 41 & 42 Vict., c. 79 (S L R)*]

6. Nothing in this Act contained shall interfere with the powers of the Governor General in Council at meetings for the purpose of making laws and regulations

Saving for
certain
powers of
Governor
General in
Council

THE GOVERNMENT OF INDIA ACT, 1865

(28 & 29 Vict., c. 17)

An Act to enlarge the Powers of the Governor General of India in Council at Meetings for making Laws and Regulations, and to amend the Law respecting the Territorial Limits of the several Presidencies and Lieutenant Governorships in India

[9th May, 1865]

[*Preamble reciting 24 & 25 Vict., c. 67, s. 22, and enacting words Rep (U K) 56 & 57 Vict., c. 14 (S L R)*]

1 The Governor General of India shall have power at meetings for the purpose of making laws and regulations, to make laws and regula-

Power to
make laws
for all

British
subjects in
territories of
allied
Princes
in India,
whether in
service of
Government
or otherwise

tions for all British subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty whether in the service of the Government of India or otherwise

Preceding
section to be
read as part
of sec 22 of
recited Act

2 The preceding section shall be read with and taken as part of section twenty-two of the said Act of the twenty-fourth and twenty-fifth years of Her Majesty, chapter sixty-seven

3. [*Rep 41 & 42 Vict, c 79 (S L R)*]

Power to
Governor
General to
appoint
territorial
limits
of Presi-
dencies, etc ,
by proclama-
tion

4 It shall be lawful for the Governor General of India in Council from time to time to declare and appoint, by proclamation, what part or parts of the Indian territories for the time being under the dominion of Her Majesty shall be or continue subject to each of the Presidencies and Lieutenant Governorships for the time being subsisting in such territories, and to make such distribution and arrangement, or new distribution and arrangement, of such territories into or among such Presidencies and Lieutenant Governorships as to the said Governor General in Council may seem expedient

Power to
Secretary of
State in
Council to
signify dis-
allowance of
such pro-
clamation
Royal sanc-
tion necessary
to transfer of
entire dis-
tricts

5 Provided always that it shall be lawful for the Secretary of State in Council to signify to the said Governor General in Council his disallowance of any such proclamation

and provided further that no such proclamation for the purpose of transferring an entire zila or district from one Presidency to another, or from one Lieutenant Governorship to another, shall have any force or validity until the sanction of Her Majesty to the same shall have been previously signified by the Secretary of State in Council to the Governor General

THE INDIA OFFICE SITE AND APPROACHES ACT, 1865

(28 & 29 Vict, c 32.)

An Act to enable the Secretary of State in Council of India to acquire additional Lands for improving the Site of the India Office and the Approaches thereto

[2nd June, 1865]

WHEREAS under the provisions of the Act of the twenty-seventh and twenty-eighth years of Her Majesty, chapter fifty-one, intituled "An Act to vest the site of the India Office in Her Majesty for the service of

the Government of India," the land described in the schedule to that Act, (subject as in the same schedule is mentioned,) became vested in Her Majesty, her heirs and successors, for the service of the Government of India as a site for the offices of the Secretary of State in Council of India, according to the provisions of the Act of the twenty-first and twenty-second years of Her Majesty, chapter one hundred and six

And whereas certain houses, buildings, and lands in the parish of St Margaret, Westminster, in the county of Middlesex, particularly described and shown in the plan hereinafter mentioned, are required by the Secretary of State in Council of India as additional site for the offices of his department and for the approaches thereto, but such houses, buildings, and lands cannot be acquired without the authority of Parliament

And whereas a plan describing the situation of the said houses, buildings, and land, hereinafter referred to as the prescribed lands, with a book of reference thereto containing the names of the owners and lessees or reputed owners and lessees, and of the occupiers thereof, has been deposited with the clerk of the peace for the county of Middlesex, at his office at the sessions house, Clerkenwell, and it is expedient that powers should be given to the Secretary of State in Council of India to purchase the prescribed lands and to appropriate the same for the purposes aforesaid

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present Parliament assembled and by the authority of the same, as follows —

1. This Act may be cited for all purposes as "The India Office Site Short title and Approaches Act, 1865 "

2 The Secretary of State in Council of India for the time being, hereinafter referred to as "The Secretary of State in Council," may purchase all or any of the prescribed lands and appropriate the same as additional site for the offices of the department of the Secretary of State in Council and for convenient accesses and approaches thereto and carry the purposes of this Act into execution

3. All lands purchased by the Secretary of State in Council in pursuance of this Act shall be conveyed to the Secretary of State in Council in trust for Her Majesty, her heirs and successors, and shall thereupon vest in Her Majesty, her heirs and successors, for the service of the Government of India, according to the provisions of the Act of the twenty-first and twenty-second years of Her Majesty, chapter one hundred and six

4 All lands purchased by the Secretary of State in Council in pursuance of this Act, and hereafter used and occupied exclusively as

to land tax
and rates

offices and for the purposes of this Act, which were at the time of such purchase subject to land tax or to poor or other rates, shall continue liable thereto, but they shall not be assessed to any tax or rate at a high value than at which they were assessed at the time of the purchase thereof, so long as they shall be so used and occupied as aforesaid

Power to
enter on
lands

5. The Secretary of State in Council, his surveyors, officers, and workmen, may at all reasonable times in the daytime, upon giving twenty-four hours' previous notice in writing, enter into and upon any of the prescribed lands for the purpose of surveying or valuing the same

8 & 9 Vict,
c 18, and
23 & 24 Vict,
c 106, incor
porated

6 "The Lands Clauses Consolidation Act, 1845," and the Act amending the same, passed in the session of the twenty-third and twenty-fourth years of her present Majesty, chapter one hundred and six, shall be incorporated with this Act, with the exceptions and additions and subject to the provisions hereinafter contained, (that is to say,)

- (1) there shall not be incorporated with this Act the sections and provisions of "The Lands Clauses Consolidation Act, 1845," hereinafter mentioned, (that is to say) section sixteen whereby it is provided that the capital is to be subscribed before the compulsory powers are to be put in force, section seventeen whereby it is provided that the certificate of the justices shall be evidence that the capital has been subscribed, or the provisions relating to the access to the special Act
- (2) in the construction of this Act and the said incorporated Acts this Act shall be deemed to be "the special Act," and the said incorporated Acts shall be read as if the expression "the promoters of the undertaking" were in the singular number, and the Secretary of State in Council shall be deemed and taken to be the promoter of the undertaking
- (3) the term "sheriff" used in the provisions of "The Lands Clauses Consolidation Act, 1845," relating to the reference to a jury, shall be deemed to apply to the high bailiff of the city and liberty of Westminster or his deputy
- (4) the bond required by section eighty-five of "The Lands Clauses Consolidation Act, 1845" shall be under the hand and seal of the Secretary of State in Council, and shall be sufficient without the addition of the sureties in the said section mentioned

Extinction
of rights of
way and
other easements

7 Upon the purchase by the Secretary of State in Council of the prescribed lands or any part thereof, save as hereinafter provided in section eleven of this Act, all rights of way, rights of laying down or continuing any pipes, sewers, or drains on, through, or under such lands or part thereof, and all other rights or easements in or relating to

such lands or part thereof, shall be extinguished, and all the soil of such ways and the property in the pipes, sewers, or drains shall vest in Her Majesty, her heirs and successors, for the service of the Government of India, subject to this provision, that all persons and bodies of persons, corporate or unincorporate, may recover from the Secretary of State in Council such compensation, if any, as they may be entitled to for any rights or property of which they may be deprived in pursuance of this section, the amount of such compensation to be determined in manner provided by "The Lands Clauses Consolidation Act, 1845"

8 All claims for compensation made upon the Secretary of State in Council under the provisions of this Act, or any Act incorporated herewith, shall, if the person claiming to be entitled to compensation has no greater interest than as tenant for a year or from year to year in the lands in respect of which the compensation is claimed, be determined in manner provided by the one hundred and twenty-first section of "The Lands Clauses Consolidation Act, 1845"

Compensation in case of tenants at will, etc

9 The period within which the powers for the compulsory purchase of lands under this Act may be exercised shall be five years from the passing of this Act

Powers for compulsory purchases limited

10 The Secretary of State in Council may pull down and remove any buildings on the prescribed lands, and may construct thereon such buildings and works and do all such other things as may in his opinion be necessary or expedient in order to carry the purposes of this Act into execution

Powers to Secretary of State in Council to execute works

11 Nothing in this Act shall extend to take away or impair any rights or jurisdiction of the metropolitan board of works in relation to any sewers, drains, or watercourses

As to rights of metropolitan board of works.

12 All buildings erected on the prescribed lands shall be exempt from the operation of the first part of "The Metropolitan Buildings Act, 1855."

Exemption from Building Act.

13 Every notice, summons, writ, or other document required to be given, issued, or signed by or on behalf of the Secretary of State in Council may be given, issued, or signed by the Principal Secretary of State for India for the time being, or one of his Under Secretaries of State or the solicitor for the time being of the Secretary of State in Council, and need not be under seal, and may be in writing or in print or partly in writing and partly in print

Authentication of orders.

14 All orders which under this Act the court of chancery is empowered to make on motion or petition in relation to any money paid into the Bank of England with the privity of the accountant general, or the court of chancery under this Act, or the securities in or upon which the same may be invested, or the dividends or interest on such money and securities, may be made by any judge of the said court in relation to him while sitting at chambers, upon summons, in the manner as

374 *The India Office Site and Approaches Act*, [28 & 29 Vict., c. 32.
1865.

The Indian Military Funds Act, 1866. [29 & 30 Vict., c. 18.

in other cases in which proceedings may be so had, subject, nevertheless, to any general orders which may hereafter be made concerning the practice, proceedings, or business of the said Court on any such applications

Penalty for obstructing the Secretary of State in Council

15. If any person wilfully obstruct any person acting under the authority of the Secretary of State in Council in the lawful exercise of the powers vested in the Secretary of State in Council under this Act he shall forfeit a sum not exceeding five pounds for every such offence, to be recovered in a summary manner

Plan to be deposited in India Office and to be open for inspection

16. A copy of the plan of the prescribed lands shall be deposited at the office of the Secretary of State in Council, and shall remain at the said office, to the end that all persons may at all seasonable times, on payment of a fee of one shilling, have liberty to inspect the same

THE INDIAN MILITARY FUNDS ACT, 1866

(29 & 30 Vict, c 18)

An Act to make provision for the Transfer of the Assets, Liabilities and Management of the Bengal, Madras, and Bombay Military Funds, the Bengal Military Orphan Society, and other Funds, to the Secretary of State for India in Council

[30th April, 1866]

[Preamble referring to certain institutions known as the Bengal, Madras and Bombay Military Funds and the Bengal Military Orphan Society, etc , and enacting words Rep 56 & 57 Vict , c 14 (S L R)]

1. [Rep 56 & 57 Vict., c 14 (S L R)]

Rights of incumbents and subscribers maintained

2. * * * * *¹ every person who shall be an incumbent on or subscriber to any of the said institutions at the date of such notification shall be entitled from time to time to receive from the revenues of India such allowance to himself, and his family shall be entitled to receive such pension or allowance after his decease, as he or they may be entitled to by the regulations of the said institutions

Power to assign additional benefits.

Provided, that nothing in this Act contained shall be held to preclude the Secretary of State for India in Council from assigning to the incumbents on and subscribers to any of the said institutions, or to their families after their decease, any benefits in addition to those secured to them by this Act, if, on considering the assets and liabilities of the several institutions, he shall deem it reasonable so to do

3. [Rep 56 & 57 Vict , c 14 (S L R)]

¹ Words repealed by 56 & 57 Vict , c 14 (S L R), have been omitted

THE INDIAN PRIZE MONEY ACT, 1866

(29 & 30 Vict., c. 47.)

An Act to legalize the Payment and Distribution of Indian Prize Money by the Treasurer or Secretary of Chelsea Hospital, and to amend an Act for the consolidating and amending the Law relating to the Payment of Army Prize Money

[28th June, 1866]

[Preamble reciting 2 & 3 Will 4, c 53, s 14, etc, and enacting words Rep (U K) 56 & 57 Vict, c 14 (S L R)]

1 The receipt of the treasurer or secretary of Chelsea Hospital, or his deputy, for all sums of money * * *¹ by the * * *² Secretary of State for India in Council, * * *³ paid over and accounted for as portions of grants of money in the nature of prize shall be a complete and effectual discharge to the said * * *⁴ Secretary of State * * *⁵ after paid over by East India Company or Secretary of State for India as monies in nature of army prize to be an effectual discharge

2 All such monies as have been so received by the * *⁶ treasurer, secretary, or by his deputy, from the said directors of the late East India Company, or the Secretary of State for India in Council, shall be held and are hereby declared * * *⁷ so far as the same remain in the hands of the said treasurer, secretary, or his deputy, * *⁷ to be subject and liable to all the provisions and conditions of the said recited Act, so far as the same are applicable to prize granted by Her Majesty to and to be received on behalf of the Army by the said treasurer of Chelsea Hospital or his deputy

3 In all cases where grants of money in the nature of prize shall hereafter be made by Her Majesty, or by Parliament, or otherwise, to the Secretary of State for India in Council, for the benefit of officers and troops of Her Majesty's Army in respect of captures and expeditions in which such officers and troops may have been engaged in India, such

^{1, 2, 3, 4, 5} The words "heretofore," "said directors of the East India Company," "or hereafter by the said Secretary of State," "directors of the East India Company," and "said" were repealed (U K) by 56 & 57 Vict, c 14 (S L R).
⁶ Words repealed (U K) by 56 & 57 Vict, c 14 (S L R), have been inserted.

respect of
captures in
India, and
distributable
out of India

portions of the same as are distributable in the United Kingdom or elsewhere out of India shall be received by the said treasurer, secretary, or his deputy, to be distributed to the persons entitled thereunto according to their respective proportions under the provisions of the said recited Act, and of this and of any other Act amending the same

Interpreta-
tion of
"officers
and troops of
Her Majesty's
Army"
Signature of
certificates
or orders
required from
out-pension-
ers of Chelsea
Hospital

4 For the purpose of this Act the words "officers and troops of Her Majesty's Army" shall not be held to include officers and soldiers of Her Majesty's European or native Indian forces

5 Where under the recited Act any certificate or order in the form E or in any other form, is required from any non-commissioned officer or soldier who shall be or shall have been an out-pensioner of Chelsea Hospital, the same may be signed by the staff officer of pensioners for the district in which the said non-commissioned officer or soldier shall reside, in lieu of any other person or officer mentioned in the said Act

In certain
cases of pay-
ment of prize
money due
to deceased
officers or
soldiers,
probate or
letters of
administra-
tion need not
be taken out

6. Where any officer, non-commissioned officer, or soldier entitled to prize money shall have died before the payment or distribution thereof, then, if the sum to which the deceased was entitled does not exceed the sum mentioned in the Army Prize (Shares of Deceased) Act, 1864, it shall not be necessary, for the purpose of making payment or distribution, that probate or letters of administration should be taken out, but in any case the said treasurer or secretary may, if he sees fit, require probate or letters of administration to be taken out, and if, on that requisition or otherwise, probate or letters of administration are taken out, then he shall pay the prize money to the executor or administrator

Payment of
prize in
money, when
administra-
tion is not
taken out

7 Where the prize to which the deceased was entitled does not exceed the sum last referred to, and probate or letters of administration are not taken out, then the said treasurer or secretary shall, if he thinks fit, pay over the same to any person showing herself or himself to the satisfaction of the said treasurer or secretary to be the widow of the deceased, or to be the child or any relative of the deceased, or to be entitled to the representation to the deceased, to the end that the said prize may be applied by the person to whom it is so paid over in a due course of administration, and the same shall be applied accordingly, or else distribute the same according to the Statute of Distributions

Stamp duty
on orders for
payment
of prize
money may
be paid by re-
ceipt or draft
stamps
affixed
No duty on
orders for
less than 10s

8 Where under the statutes at present in force an order for the payment of prize money is liable to stamp duty the amount of such duty may be paid by receipt or draft stamps affixed to the said order, equal in the total amount thereof to the stamp duty payable on an inland bill for a sum equal to that for which the order is given, and that no order for any sum less than forty shillings shall be liable to stamp duty

THE NAVAL DISCIPLINE ACT

(29 & 30 Vict, c 109)

An Act to make Provision for the Discipline of the Navy

[10th August, 1866]

[*Printed, as amended, in accordance with the Naval Discipline Act, 1884 (47 & 48 Vict, c 39), s 7 (2)]*

[*Preamble and enacting words Rep (U K) 56 & 57 Vict, c 14 (S L R)]*

PART I

ARTICLES OF WAR

Public Worship

Penalty for
not pursuing
the enemy, or
not assisting
a friend in
view

3. Every officer subject to this Act who shall forbear to pursue the chase of any enemy, pirate, or rebel, beaten or flying, or shall not relieve and assist a known friend in view to the utmost of his power, or who shall improperly forsake his station, shall, if he has therein acted traitorously, suffer death, if he has acted from cowardice, suffer death, or such other punishment as is herein-after mentioned, if he has acted from negligence, or through other default, shall be dismissed from Her Majesty's service, with disgrace, or shall suffer such other punishment as is herein-after mentioned

Penalty for
delaying or
discouraging
action or service,
deserting post, or
sleeping on
watch

Penalty for
misconduct
of subordinate
officers
and men in
action

4. When any action or any service is commanded, every person subject to this Act who shall presume to delay or discourage the said action or service upon any pretence whatsoever, or in the presence or vicinity of the enemy shall desert his post or sleep upon his watch, shall suffer death, or such other punishment as is herein-after mentioned

5. Every person subject to this Act, and not being a commanding officer, who shall not use his utmost exertions to carry the orders of his superior officers into execution when ordered to prepare for action, or during the action, shall, if he has acted traitorously, suffer death, if he has acted from cowardice, shall suffer death, or such other punishment as is herein-after mentioned, and if he has acted from negligence, or through other default, be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned

Communications with the Enemy

Penalty on
spies.

6. All spies for the enemy shall be deemed to be persons subject to this Act, and shall suffer death, or such other punishment as is herein-after mentioned

Penalty for
correspond-
ing, etc., with
the enemy

7. Every person subject to this Act who shall--

- (1) traitorously hold correspondence with or shall give intelligence to the enemy,
- (2) or fail to make known to the proper authorities any information he may have received from the enemy,
- (3) or who shall relieve the enemy with any supplies,

shall suffer death, or such other punishment as is herein-after mentioned

Penalty for
improper
communica-
tion with the
enemy

8. Every person subject to this Act who shall, without any treacherous intention, hold any improper communication with the enemy, shall be dismissed with disgrace from Her Majesty's service, or shall suffer such other punishment as is herein-after mentioned.

Neglect of Duty.

Penalty for
deserting post,
sleeping on

9. Every person subject to this Act who shall desert his post or sleep upon his watch, or negligently perform the duty imposed on him, shall

be dismissed from Her Majesty's service, with disgrace, or shall suffer such other punishment as is herein-after mentioned

watch, or neglecting duty.

Mutiny

10. Where mutiny is accompanied by violence, every person subject to this Act who shall join therein shall suffer death, or such other punishment as is herein-after mentioned,

Penalty for mutiny accompanied by acts of violence, and for not using utmost efforts to suppress such mutiny

and every person subject to this Act who shall not use his utmost exertions to suppress such mutiny shall, if he has acted traitorously, suffer death, or such other punishment as is herein-after mentioned, if he has acted from cowardice, shall suffer penal servitude, or such other punishment as is herein-after mentioned, if he has acted from negligence, he shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned

11 Where a mutiny is not accompanied by violence, the ringleader or ringleaders of such mutiny shall suffer death, or such other punishment as is herein-after mentioned, and all other persons who shall join in such mutiny or shall not use their utmost exertions to suppress the same, shall suffer imprisonment, or such other punishment as is herein-after mentioned

Penalty for mutiny not accompanied by acts of violence, and for not using utmost efforts to suppress such mutiny

12 Every person subject to this Act who shall endeavour to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavour to incite him to commit any act of mutiny, shall suffer death, or such other punishment as is herein-after mentioned

Penalty for seducing from allegiance, or inciting to mutiny

13 Every person, not otherwise subject to this Act, who, being on board any ship of Her Majesty, shall endeavour to seduce from his duty or allegiance to Her Majesty any person subject to this Act, shall so far as respects such offence be deemed to be a person subject to this Act, and shall suffer death, or such other punishment as is herein-after mentioned.

Penalty on civilians endeavouring to seduce from allegiance

14 Every person subject to this Act who shall make or endeavour to make any mutinous assembly, or shall lead or incite any other person to join in any mutinous assembly, or shall utter any words of sedition or mutiny, shall suffer penal servitude, or such other punishment as is herein-after mentioned

Penalty for making mutinous assemblies or uttering seditious words.

15. Every person subject to this Act who shall wilfully conceal any traitorous or mutinous practice or design, or any traitorous or mutinous words spoken against Her Majesty, or any words, practice, or design tending to the hindrance of the service, shall suffer penal servitude, or such other punishment as is herein-after mentioned

Penalty for concealing any traitorous or mutinous practice, design, or words

16 Every person subject to this Act who shall strike, or with any weapon attempt to strike, or draw or lift up any weapon against, his

Penalty for striking or attempting to

strike, etc.,
superior
officer

superior officer being in the execution of his office, shall be punished with death, or such other punishment as is herein-after mentioned,

and every person subject to this Act who shall, otherwise than with a weapon, attempt to strike or use or attempt to use any violence against his superior officer being in the execution of his office, shall be punished with penal servitude, or such other punishment as is herein-after mentioned,

and every person subject to this Act who shall strike or attempt to strike, or draw or lift up any weapon against, or use or attempt to use any violence against, his superior officer not being in the execution of his office, shall be punished with penal servitude, or such other punishment as is herein-after mentioned

Insubordination

Penalty for
disobedience
or using
threatening
language to
superior
officer

17. Every person subject to this Act who shall wilfully disobey any lawful command of his superior officer or shall use threatening or insulting language, or behave with contempt to his superior officer, shall be punished with dismissal with disgrace from Her Majesty's service or suffer such other punishment as is herein-after mentioned

Penalty for
quarrelling,
etc., or using
reproachful
speech or
gestures.

18 Every person subject to this Act who shall quarrel or fight with any other person, whether such other person be or be not subject to this Act, or shall use reproachful or provoking speeches or gestures tending to make any quarrel or disturbance, shall suffer imprisonment, or such other punishment as is herein-after mentioned

Desertion and Absence without Leave

Penalty for
desertion

19. Every person subject to this Act who shall absent himself from his ship, or from the place where his duty requires him to be, with an intention of not returning to such ship or place, or who shall at any time and under any circumstances, when absent from his ship or place of duty, do any act which shows that he has an intention of not returning to such ship or place, shall be deemed to have deserted, and shall be punished accordingly, that is to say,

- (1) if he has deserted to the enemy, he shall be punished with death, or such other punishment as is herein-after mentioned,
- (2) if he has deserted under any other circumstances, he shall be punished with penal servitude, or such other punishment as is herein-after mentioned,

and in every such case he shall forfeit all pay, head money, bounty, salvage, prize money, and allowances that have been earned by him, and

all annuities, pensions, gratuities, medals, and decorations that may have been granted to him, and also all clothes and effects which he may have left on board the ship or at the place from which he has deserted, unless the tribunal by which he is tried, or the Admiralty, shall otherwise direct

20. Every person subject to this Act who shall endeavour to seduce any other person subject to this Act to desert shall suffer imprisonment, or such other punishment as is herein-after mentioned

Penalty for inducing any person to desert

21. Every officer in command of any ship of Her Majesty who shall receive or entertain any deserter from Her Majesty's military or naval forces, after discovering him to be a deserter, and shall not with all convenient speed, in the case of a deserter from Her Majesty's naval forces, give notice to the commanding officer of the ship to which such deserter belongs, or if such ship is at a distance, to the Secretary of the Admiralty or to the commander-in-chief, or, in case of a deserter from Her Majesty's military forces, give notice to the Secretary of War or the commanding officer of the regiment to which such deserter belongs, the officer so offending shall be dismissed from Her Majesty's service, or suffer such other punishment as is herein-after mentioned

Penalty on officers entertaining deserters from military or naval forces

22 If any person subject to this Act (without being guilty of desertion) improperly leaves his ship or place of duty, he shall be liable to imprisonment or to such other punishment as is herein-after mentioned, and to such other punishment by forfeiture of wages or of other benefits as the Admiralty from time to time by regulations prescribe

Penalty for improperly leaving ship or place of duty

23 Every person subject to this Act who (without being guilty of desertion or of improperly leaving his ship or place of duty) shall be absent without leave shall be liable to imprisonment ¹[or detention] for any period not exceeding ten weeks, ²* * * *, or such other punishment as the circumstances of the case may require, and to such other punishment by forfeiture of wages or of other benefits as the Admiralty from time to time by regulations prescribe

Penalty for absence without leave

24 If any person subject to this Act is absent without leave for a period of one month (whether he is guilty of desertion or of improperly leaving his ship or place of duty or not) but is not apprehended and tried for his offence, he shall be liable to forfeiture of wages and other benefits as the Admiralty from time to time by regulations prescribe, and the Admiralty, or, on a foreign station, the commander-in-chief, may by an order containing a statement of the absence without leave direct that the clothes and effects (if any) left by him on boardship or at his place of duty be forfeited, and the same may be sold, and the proceeds of the sale shall be disposed of as the Admiralty or the com-

Forfeiture of effects by persons absent without leave for a month, but not apprehended and tried

¹ Inserted by 9 Edw 7, c 41, schedule

² The words " with or without hard labour " were omitted by 9 Edw 7, c 41, schedule

mander-in-chief (as the case may be) may direct, and every order under this provision for forfeiture or sale shall be conclusive as to the fact of the absence without leave as therein stated of the person therein named, but in any case the Admiralty may, if it seems fit, on sufficient cause being shewn at any time after forfeiture and before sale, remit the forfeiture, or after sale pay or dispose of the proceeds of the sale or any part thereof to or the use of the person to whom the clothes or effects belonged, or his representatives

Penalty on
any person
not subject to
this Act for
assisting, etc.,
desertion

25 If any person not subject to this Act assists or procures any person subject to this Act to desert or improperly absent himself from his duty, or conceals, employs, or continues to employ any person subject to this Act who is a deserter or improperly absent from his duty, knowing him to be a deserter or so improperly absent,

he shall, for every such offence of assistance, procurement, concealment, employment, or continuance of employment, be liable, on summary conviction thereof before a justice or justices, or before any person or persons or court exercising like authority in any part of Her Majesty's dominions, to a penalty not exceeding thirty pounds,

Application
of penalty

and, notwithstanding anything in any Act relating to municipal corporations, or to the metropolitan police, or in any other Act, every such penalty shall be applied as the Admiralty direct

Penalty on
any such
person for
persuading to
desertion, etc.

26 If any person not subject to this Act by words or otherwise persuades any person subject to this Act to desert or improperly absent himself from his duty, he shall for every such offence be liable, on summary conviction thereof before a justice or justices, or before any person or persons or court exercising like authority in any part of Her Majesty's dominions, to a penalty not exceeding twenty pounds,

Application
of penalty

and, notwithstanding anything in any Act relating to municipal corporations, or to the metropolitan police, or in any Act, every such penalty shall be applied as the Admiralty direct

Miscellaneous Offences

Penalty for
profane
swearing and
other im-
moralities

27 Every person subject to this Act who shall be guilty of any profane oath, cursing, execration, drunkenness, uncleanness, or other scandalous action, in derogation of God's honour and corruption of good manners, shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned

Penalty on
officer for
cruelty, fraud
or unbecom-
ing conduct

28 Every officer subject to this Act who shall be guilty of cruelty, or of any scandalous or fraudulent conduct, shall be dismissed with disgrace from Her Majesty's service, and every officer subject to this Act who shall be guilty of any other conduct unbecoming the character of an officer shall be dismissed, with or without disgrace, from Her Majesty's service

29. Every person subject to this Act who shall either designedly or negligently or by any default lose, strand, or hazard, or suffer to be lost, stranded, or hazarded, any ship of Her Majesty or in Her Majesty's service, shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned

Penalty for suffering ships to be improperly lost

30. The officers of all ships of Her Majesty appointed for the convoy and protection of any ships or vessels shall diligently perform their duty without delay, according to their instructions in that behalf,

Penalty for not taking care of and defending ships under convoy, or for exacting reward from merchants or masters, or ill treating masters or mariners

and every officer who shall fail in his duty in this respect, and shall not defend the ships and goods under his convoy, without deviation to any other objects, or shall refuse to fight in their defence if they are assailed, or shall cowardly abandon and expose the ships in his convoy to hazard, or shall demand or exact any money or other reward from any merchant or master for convoying any ships or vessels intrusted to his care, or shall misuse the masters or mariners thereof, shall make such reparation in damages to the merchants, owners, and others as the Court of Admiralty may adjudge, and also shall be punished criminally according to the nature of his offence, by death, or such other punishment as is herein-after mentioned

31 Every master or other officer in command of any merchant or other vessel under the convoy of any ship of Her Majesty shall obey the commanding officer thereof in all matters relating to the navigation or security of the convoy, and shall take such precautions for avoiding the enemy as may be directed by such commanding officer,

Master of merchant vessel to obey orders of convoying officer

and if he shall fail to obey such directions, such commanding officer may compel obedience by force of arms, without being liable for any loss of life or of property that may result from his using such force

32 Every officer in command of any of Her Majesty's ships who shall receive on board or permit to be received on board such ship any goods or merchandises whatsoever, other than for the sole use of the ship, except gold, silver, or jewels, and except goods and merchandise belonging to any merchant or on board any ship which may be shipwrecked or in imminent danger either on the high seas or in some port, creek, or harbour, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the Admiralty or his superior officer shall be dismissed from Her Majesty's service or suffer such other punishment as is herein-after mentioned

Penalty for taking any goods on board, other than for use of vessel, except gold, silver, jewels, etc

33 Every person subject to this Act who shall wastefully expend, embezzle, or fraudulently buy, sell, or receive any ammunition, provisions, or other public stores, and every person subject to this Act who shall knowingly permit any such wasteful expenditure, embezzlement, sale, or receipt, shall suffer imprisonment, or such other punishment as is herein-after mentioned,

Penalty for wasting or embezzling public stores, or permitting such waste, etc

Penalty for burning any magazine or vessel, etc., not belonging to an enemy

34. Every person subject to this Act who shall unlawfully set fire to any dockyard, victualling yard or steam factory yard, arsenal, magazine, building, stores or to any ship, vessel, hoy, barge or boat, or other craft or furniture thereunto belonging, not being the property of an enemy, pirate, or rebel, shall suffer death, or such other punishment as is herein-after mentioned

Penalty for making or signing false musters, etc

35 Every person subject to this Act who shall knowingly make or sign a false muster or record or other official document, or who shall command, counsel, or procure the making or signing thereof, or who shall aid or abet any other person in the making or signing thereof, shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned

Penalty for misconduct in hospital, or for feigning disease

36. Every person subject to this Act who shall wilfully do any act, or wilfully disobey any orders, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity, or to delay his cure, or who shall feign any disease, infirmity, or inability to perform his duty, shall suffer imprisonment, or such other punishment as is herein-after mentioned

Complaints of unwholesomeness of victuals or on other just grounds, how to be made and redressed.

37 Every person subject to this Act who shall have any cause of complaint, either of the unwholesomeness of the victuals or upon any other just ground, shall quietly make the same known to his superior, or captain, or commander-in-chief, and the said superior, captain, or commander-in-chief shall, as far as he is able, cause the same to be presently remedied;

Penalty for endeavouring to stir up disturbance

and no person subject to this Act upon any pretence whatever shall attempt to stir up any disturbance, upon pain of such punishment as a court-martial may think fit to inflict, according to the degree of offence

Penalty for not sending to Court of Admiralty or other prize court all papers found aboard prize ships

38 All the papers, charter-parties, bills of lading, passports, and other writings whatsoever that shall be taken, seized, or found aboard any ship or ships which shall be taken as prize shall be duly preserved, and the commanding officer of the ship which shall take such prize shall send the originals entire and without fraud to the Court of Admiralty, or such other court or commissioners as shall be authorized to determine whether such prize be lawful capture, there to be viewed, made use of, and proceeded upon according to law, upon pain that every person offending herein shall be dismissed from Her Majesty's service, or shall suffer such other punishment as is herein-after mentioned, and in addition thereto shall forfeit and lose his share of the capture

adjudged lawful prize in some Admiralty court, but the full and entire account of the whole without embezzlement shall be brought in, and judgment passed entirely upon the whole, without fraud, upon pain that every person offending herein shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned, and in addition thereto forfeit and lose his share of the capture

40. If any ship or vessel shall be taken as prize, none of the officers, mariners, or other persons on board her shall be stripped of their clothes, or in any sort pillaged, beaten, or evil intreated, upon pain that the person or persons so offending shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned

41 If the commanding officer of any of Her Majesty's ships does any of the following things, namely,

- (1) by collusion with the enemy takes as prize any vessel, goods, or thing,
- (2) unlawfully agrees with any person for the ransoming of any vessel, goods, or thing taken as prize, or
- (3) in pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any vessel, goods, or thing taken as prize,

he shall be liable to dismissal from Her Majesty's service, with disgrace, or to such other punishment as is herein-after mentioned

Offences punishable by ordinary Law

Penalties for
offences
punishable by
ordinary law

45 Every person subject to this Act who shall be guilty of murder shall suffer death

if he shall be guilty of manslaughter, he shall suffer penal servitude, or such other punishment as is herein-after mentioned

if he shall be guilty of sodomy with man or beast, he shall suffer penal servitude

if he shall be guilty of an indecent assault, he shall suffer penal servitude, or such other punishment as is herein-after mentioned

if he shall be guilty of robbery or theft, he shall suffer penal servitude, or such other punishment as is herein-after mentioned

if he shall be guilty of any other criminal offence which if committed in England would be punishable by the law of England, he shall, whether the offence be or be not committed in England, be punished either in pursuance of the first part of this Act as for an act to the prejudice of good order and naval discipline not otherwise specified, or the offender shall be subject to the same punishment as might for the time being be awarded by any ordinary criminal tribunal competent to try the offender if the offence had been committed in England

Offences,
when punish-
able

46. For all offences specified or referred to in this Act, if committed by any person subject thereto in any harbour, haven, or creek, or on any lake or river, whether in or out of the United Kingdom, or anywhere within the jurisdiction of the Admiralty or at any place on shore out of the United Kingdom of Great Britain and Ireland, or in any of Her Majesty's dockyards, victualling yards, steam factory yards, or on any gun wharf, or in any arsenal, barrack, or hospital belonging to Her Majesty, whether in or out of the said United Kingdom, the offender may be tried and punished under this Act,

and for all offences herein-before specified under the headings "Misconduct in the Presence of the Enemy," "Communications with the Enemy," "Neglect of Duty," "Mutiny," "Insubordination," "Desertion and Absence without Leave," or "Miscellaneous Offences," if committed by any person subject to this Act at any place on shore, whether in or out of the said United Kingdom, the offender may be tried and punished under this Act

PART II

GENERAL PROVISIONS

Power of
court-martial
to find intent
with which

47. Where the amount of punishment for any offence under this Act depends upon the intent with which it has been committed, and any ¹[person] is charged with having committed such offence with an intent

¹ Substituted for the word "prisoner" by 9 Edw. 7, c. 41, schedule

involving a greater degree of punishment, a court-martial may find that the offence was committed with an intent involving a less degree of punishment, and award such punishment accordingly

48. Where any ¹[person] shall be charged with murder, a court-martial may find him guilty of manslaughter or of a common assault, where he shall be charged with sodomy, a court-martial may find him guilty of an indecent assault,

where he shall be charged with theft, a court-martial may find him guilty of an attempt to steal, or of embezzlement, or of wrongful appropriation of property belonging to another,

and generally where any ¹[person] shall be charged with any offence under this Act, he may, upon failure of proof of the commission of the greater offence, be found guilty of another offence of the same class involving a less degree of punishment, but not of any offence involving a greater degree of punishment

49. All armed rebels, armed mutineers, and pirates shall be deemed to be enemies within the meaning of this Act

50. Every officer in command of a fleet or squadron of Her Majesty's ships, or of one of Her Majesty's ships, or the senior officer present at a port, may by warrant under his hand authorize any person to arrest any offender subject to this Act for any offence against this Act mentioned in such warrant,

and any such warrant may include the names of more persons than one in respect of several offences of the same nature,

and any person named in any such warrant may forthwith, on his apprehension, if the warrant so directs, be taken on board the ship to which he belongs, or some other of Her Majesty's ships, and any person so authorized may use force, if necessary, for the purpose of effecting such apprehension, towards any person subject to this Act

51. Every person subject to this Act who shall not use his utmost endeavours to detect, apprehend, and bring to punishment all offenders against this Act, and shall not assist the officers appointed for that purpose, shall suffer imprisonment, or such other punishment as is herein-after mentioned

PART III

REGULATIONS AS TO PUNISHMENTS

52 The following punishments may be inflicted in Her Majesty's Navy.

(1) Death.

¹ Substituted for the word "prisoner" by 9 Edw 7, c. 41, schedule

- (2) Penal servitude
- (3) Dismissal with disgrace from Her Majesty's service.
- (4) Imprisonment or corporal punishment.
- ¹[(4A) Detention]
- (5) Dismissal from Her Majesty's service
- (6) Forfeiture of seniority as an officer for a specified time or otherwise
- (7) Dismissal from the ship to which the offender belongs:
- (8) Severe reprimand, or reprimand
- (9) Disrating a subordinate or petty officer
- (10) Forfeiture of pay, head money, bounty, salvage, prize money and allowances earned by, and of all annuities, pensions, gratuities, medals, and decorations granted to the offender or of any one or more of the above particulars, also, in the case of desertion, of all clothes and effects left by the deserter on board the ship to which he belongs.
- (11) Such minor punishments as are now inflicted according to the custom of the Navy, or may from time to time be allowed by the Admiralty

And each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale

Regulations
as to infliction
of
punishments.

53. The following regulations are hereby made with respect to the infliction of punishments in Her Majesty's Navy

- (1) The Admiralty may, except in case of sentence of death, which shall only be remitted by Her Majesty, suspend, annul, or modify any sentence passed on any person subject to this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted, and any sentence so modified shall (subject to the provisions of this Act) be valid and shall be carried into execution, as if it had been originally passed, with such modifications by the court-martial, but so that ¹[neither the degree nor the duration of] the punishment involved in any sentence be ²* * * increased by any such modification
- (2) Judgment of death shall not be passed on any prisoner unless four at least of the officers present at the court-martial, where the number does not exceed five, and in other cases a majority of not less than two-thirds of the officers present, concur in the sentence

¹ Inserted by 9 Edw 7, c 41, schedule

² The word "not" was omitted by 9 Edw, 7, c, 41, schedule,

- (3) Except in case of mutiny, the punishment of death shall not be inflicted on any prisoner until the sentence has been confirmed by the Admiralty, or by the Commander-in-Chief on a foreign station
- (4) The punishment of penal servitude may be inflicted for the term of life, or for any other term of not less than five¹ years
- (5) The punishment of penal servitude shall in all cases involve dismissal with disgrace from Her Majesty's service
- (6) A sentence of dismissal with disgrace shall involve in all cases a forfeiture of all pay, head money, bounty, salvage, prize money, and allowances that have been earned by, and of all annuities, pensions, gratuities, medals, and decorations that may have been granted to, the offender, and an incapacity to serve Her Majesty again in any military, naval, or civil service, and may also in all cases be accompanied by a sentence of imprisonment
- (7) The punishment of imprisonment may be inflicted for any term not exceeding two years
- (8) A sentence of imprisonment may be accompanied with a direction that the prisoner shall be kept in solitary confinement for any period of such term, not exceeding fourteen days at any one time and not exceeding eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than the periods of solitary confinement,
- and when the imprisonment awarded exceeds eighty-four days, the solitary confinement shall not exceed seven days in any twenty-eight days of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.
- (9) A sentence of imprisonment may also be accompanied with a direction that the prisoner shall be kept to hard labour for all or any part of the term of imprisonment,
- and corporal punishment may be awarded in addition to any sentence of imprisonment, whether such imprisonment is or is not to be accompanied with solitary confinement and hard labour, or either of them
- ²[(9A) The punishment of detention may be inflicted for any term not exceeding two years]

¹ " Three years " substituted by 54 & 55 Vict., c. 69, s. 1

² Inserted by 9 Edw. 7, c. 41, schedule

- (10) The punishment of imprisonment ¹[or detention] whether on board ship or on shore shall involve disrating in case of a petty officer and reduction to the ranks in case of a non-commissioned officer of marines, and shall in all cases be accompanied by stoppage of pay or wages during the term of imprisonment ¹[or detention]

¹ [Provided that where the punishment awarded is detention for a term not exceeding fourteen days, the sentence may direct that the punishment shall not be accompanied by stoppage of pay or wages during the term of detention]

- (11) In any case of corporal punishment not more than forty-eight lashes shall be inflicted

no officer shall be subject ¹[to detention or] to corporal punishment

no petty or non-commissioned officer shall be subject to corporal punishment except in case of mutiny

All other punishments authorized by this Act may be inflicted in the manner heretofore in use in the navy.

Limitation of
time for
trials

54 No person, unless he be an offender who has avoided apprehension or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless such trial shall take place within three years from the commission of such offence, or within one year after the return of such offender to the United Kingdom, where he has been absent from the United Kingdom during such period of three years

Scale of
punishment

55. Subject to the foregoing regulations, where any punishment is specified by this Act as the penalty for any offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment, according to the scale herein-before mentioned,

Corporal
punishment

but corporal punishment shall be deemed equal in degree to imprisonment and may in all cases, subject to the foregoing regulations, be inflicted as a substitute for or in addition to imprisonment

Authorities
having power
to try
offences

²56. (1) Any offence triable under this Act may be tried and punished by court-martial

(2) Any offence, not capital, which is triable under this Act, and (except in the cases by this Act expressly provided for) is not committed by an officer, may, under such regulations as the Admiralty may from time to time issue, be summarily tried and punished by the officer in command of the ship to which the offender belongs at the time either

¹ Inserted by 9 Edw 7, c 41, schedule.

² See amendments made by 47 & 48 Vict, c 39, ss 1, 8

of the commission or of the trial of the offence, subject to the restriction that the commanding officer shall not have power to award penal servitude or to award imprisonment '[or detention] for more than three months

(3) The power by this section vested in an officer commanding a ship may,—

- (a) as respects persons on board a tender to the ship, be exercised, when the tender is absent from the ship, by the officer in command of the tender, and
- (b) as respects persons on board any boat or boats belonging to the ship, be exercised, when such boat or boats is or are absent on detached service, by the officer in command of the boat or boats, and
- (c) as respects persons subject to this Act on shore on detached service, or such of those persons as are not for the time being subject to military law by an order under section one hundred and seventy-nine of the Army Act, 1881, be exercised by the officer in immediate command on shore of those persons

(1) Except in case of mutiny, no man shall be sentenced by the commanding officer to corporal punishment until his offence has been inquired into by one or more officers appointed by such commanding officer, and his or their opinion as to the guilt or innocence of the ²[person charged] reported to such commanding officer, and the commanding officer shall thereupon act as according to his judgment may seem right

57 With respect to the authorities by whom certain punishments may be imposed, the following provisions shall take effect, namely,

- (1) With respect to any subordinate officer, the punishment of forfeiture of time or seniority may be imposed as follows, namely, by the Admiralty for any time not exceeding twelve months, by the Commander-in-Chief on a foreign station for any time not exceeding six months, or by the commanding officer for any time not exceeding three months
- (2) With respect to any subordinate officer, the Commander-in-Chief on a foreign station shall have power to impose the punishments numbered (7), (8), and (9) in the scale hereinbefore contained

Authorities empowered to impose punishments to adhere to provisions herein named

¹ Inserted by 9 Edw 7, c 41, schedule

² Substituted for the word "prisoner" by 9 Edw. 7, c 41, schedule.

PART IV

COURTS-MARTIAL

Constitution of Courts-martial

Constitution
of courts-
martial

¹58. The following regulations are hereby made with respect to courts-martial

- (1) A court-martial shall consist of not less than five nor more than nine officers
- (2) No officer shall be qualified to sit as a member of any court-martial held in pursuance of this Act unless he be a flag officer, captain, commander or lieutenant of Her Majesty's Navy on full pay
- (3) A court-martial shall not be held unless at least two of Her Majesty's ships, not being tenders, and commanded by captains, commanders, or lieutenants of Her Majesty's Navy on full pay, are together at the time when such court-martial is held
- (4) No officer shall sit on a court-martial who is under twenty-one years of age
- (5) No court-martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer, and the other officers composing the court are of the rank of captain, or of higher rank
- (6) No court-martial for the trial of a captain in Her Majesty's Navy shall be duly constituted unless the president is a captain, or of higher rank, and the other officers composing the court are commanders, or officers of higher rank
- (7) No court-martial for the trial of a person below the rank of captain in Her Majesty's Navy shall be duly constituted unless the president is a captain, or of higher rank, nor, if the person to be tried is of the rank of commander, unless, in addition to the president, two other members of the court are of the rank of commander, or of higher rank
- (8) The prosecutor shall not sit on any court-martial for the trial of a ²[person] whom he prosecutes
- (9) The Admiralty shall have power to order courts-martial to be held for the trial of offences under this Act, and to grant commissions to any officer of Her Majesty's Navy on full pay, authorizing him to order courts-martial to be held for the trial of such offences
- (10) An officer holding a commission from the Admiralty to order courts-martial shall not be empowered to do so if there is

¹ See amendments made by 47 & 48 Vict., c. 39, ss 2, 8

² Substituted for the word "prisoner" by 9 Edw 7, c 41, schedule

present at the place where such court-martial is to be held any officer superior in rank to himself, on full pay and in command of one or more of Her Majesty's ships or vessels, although such last-mentioned officer may not hold a commission to order courts-martial, and in such a case such last-mentioned officer may order a court-martial although he does not hold any commission for the purpose

- (11) If any officer holding a commission from the Admiralty to order courts-martial, having the command of a fleet or squadron, and being in foreign parts, die, be recalled, leave his station, or be removed from his command, the officer upon whom the command of the fleet or squadron devolves, and so from time to time the officer who shall have the command of the fleet or squadron, shall, without any commission from the Admiralty, have the same power to order courts-martial as the first-mentioned officer was invested with
- (12) If any officer holding a commission from the Admiralty to order courts-martial, and having the command of any fleet or squadron of Her Majesty's ships in foreign parts, shall detach any part of such fleet or squadron, or separate himself from any part of such fleet or squadron, he may, by commission under his hand, empower in the first-mentioned case the commanding officer of the squadron or detachment ordered on such separate service, and, in case of his death or ceasing so to command, the officer to whom the command of such separate squadron or detachment shall belong, and in the secondly-mentioned case the senior officer of Her Majesty's ships on the division of the station from which he is absent, to order court-martial during the time of such separate service, or during his absence from that division of the station (as the case may be), and every such authority shall continue in force until revoked, or until the officer holding it returns to the United Kingdom, or until he comes into the presence of a superior officer empowered to order courts-martial in the same squadron, detachment or division of a station, but so that such authority shall revive on the officer holding it ceasing to be in the presence of such a superior officer, and so from time to time as often as the case so requires
- (13) The officer ordering a court-martial shall not sit thereon
- (14) The president of every court-martial shall be named by the authority ordering the same, or by any officer empowered by such authority to name the president

- (15) No commander or lieutenant shall be required to sit as a member of any court-martial when four officers of a higher rank and junior to the president can be assembled at the place where the court-martial is to be holden (but the regularity or validity of any court-martial or of the proceedings thereof shall not be affected by any commander or lieutenant being required to sit, or sitting, thereon, under any circumstances), and when any commander or lieutenant sits on any court-martial, the members of it shall not exceed five in number
- (16) Subject to the foregoing regulations, whenever a court-martial shall be held, the officer appointed to preside thereat shall summon all the officers next in seniority to himself present at the place where the court-martial shall be held to sit thereon, until the number of nine, or such number, not less than five, as is attainable, is complete, subject to this proviso, that the admirals and captains being superintendent of Her Majesty's dockyards shall not be summoned to sit on courts-martial unless specially directed to do so by orders from the Admiralty

Proceedings of Courts-martial

Courts
martial where
to be held
As to time of
sittings of
courts-
martial

59. A court-martial under this Act shall be held on board one of Her Majesty's ships or vessels of war

60. A court-martial held in pursuance of this Act shall sit from day to day with the exception of Sundays, until sentence is given, unless prevented from so doing by stress of weather or unavoidable accident, and its proceedings shall not be delayed by the absence of any member, so that not less than four are present,

Penalty on
members
absenting
themselves.

and no member shall absent himself unless compelled so to do by sickness or other just cause to be approved of by the other members of the court, and if any member of a court-martial shall absent himself therefrom in contravention of this section he shall be dismissed from Her Majesty's service or shall suffer such other punishment as may be awarded by a court-martial

Appointment
of officiating
judge ad-
vocate

61. In the absence of the judge advocate of the fleet or his deputy, and in default of any appointment in this behalf by the Admiralty, or by the Commander-in-Chief of any fleet or squadron, the officer who is to be the president of the court-martial shall appoint a person to officiate as deputy judge advocate at the trial, and the judge advocate of the fleet for the time being, or his deputy, or the person officiating as deputy judge advocate, at any trial shall administer an oath to every witness appearing at the trial.

Administra-
tion of oaths
to witnesses

62. As soon as the court is assembled, the names of the officers composing the court shall be read over to the ¹[person charged], who shall be asked if he objects to being tried by any member of the court, if the ¹[person charged] shall object to any member, the objection shall be decided by the court, if the objection shall be allowed, the place of the member objected to shall be filled up by the officer next in seniority who is not on the court-martial, subject to the regulations hereinbefore contained

Objections by prisoners to constitution of courts

The ¹[person charged] may then raise any other objection which he desires to make respecting the constitution of the court-martial, and the objection shall then be decided by the court, which decision shall be final, and the constitution of the court-martial shall not be afterwards impeached, and it shall be deemed to have been in all respects duly constituted

63 Before the court shall proceed to try the ¹[person charged], the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate of the fleet, shall administer to every member of the Court the following oath, that is to say,

Oaths to be administered to members of courts martial

‘ I, _____, do swear, that I will duly administer justice ‘ according to law, without partiality, favour, or affection, and I do ‘ further swear, that I will not on any account, at any time whatsoever, ‘ disclose or discover the vote or opinion of any particular member of ‘ this court-martial, unless thereunto required in due course of law

So help me GOD ’

64 As soon as the said oath shall be administered to the members of the court-martial the president shall administer to the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate, the following oath

Oaths to be administered to judge advocate, etc

‘ I, _____, do swear, that I will not upon any account, at any ‘ time whatsoever, disclose or discover the vote or opinion of any parti- ‘ cular member of the court-martial, unless thereunto required in due ‘ course of law

So help me GOD ’

65 The Admiralty may from time to time frame general orders for altering and regulating (subject to the provisions of this Act) the procedure and practice of courts-martial under this Act,

Power to Admiralty to frame general orders for practice of courts martial, subject to approval by Her Majesty in Council

and any such general orders shall have full effect if and when approved by Her Majesty in Council, on a report of the Judicial Committee of the Privy Council, but not sooner or otherwise;

and every Order in Council made under this section shall be laid before both Houses of Parliament

66 Every person, civil, naval and military, who may be required to give evidence before a court-martial, shall be summoned by writing

Summoning witnesses.

¹ Substituted for the word “ prisoner ” by 9 Edw 7, c 41, schedule

under the hand of one of the secretaries of the Admiralty, or by the deputy judge advocate, or the person appointed to officiate as deputy judge advocate at the trial;

and all persons so summoned and attending as witnesses before any court-martial shall, during their necessary attendance in or on such court, and in going to and returning from the same, be privileged from arrest, and shall, if unduly arrested, be discharged by the court out of which the writ or process issued by which such witness was arrested, or if such court be not sitting, then by any judge of the Superior Courts of Westminster or Dublin, or the Court of Session in Scotland, or of the courts of law in the East or West Indies or elsewhere, according as the case shall require, upon its being made to appear to such court or judge, by any affidavit in a summary way, that such witness was arrested in going to or returning from or attending upon such court-martial,

and all witnesses so duly summoned as aforesaid who make default in attending on such courts, or attending refuse to be sworn or make affirmation, or being sworn or having made affirmation refuse to give evidence, or to answer all such questions as the court may legally demand of them, or prevaricate in giving their evidence, shall upon certificate thereof under the hand of the president of such court-martial be liable to be attached in the Court of Queen's Bench in London or Dublin, or the Court of Session, or sheriff depute or stewards depute, or their respective substitutes, within their several shires and stewartries in Scotland or courts of law in the East or West Indies, or in any of Her Majesty's colonies, garrisons, or dominions in Europe or elsewhere, respectively, upon complaint made, in like manner as if such witness after having been duly summoned and subpœnaed had neglected to attend on a trial in any proceeding in the court in which such complaint is made, or had refused to be sworn or on being sworn had refused to give evidence, or to answer all such questions as the court may legally demand, or had prevaricated in giving evidence, or, if the court-martial shall think fit, in case any such person belong to Her Majesty's Navy, being called upon to give evidence at any court-martial, shall refuse or neglect to attend to give his evidence upon oath or affirmation, or shall prevaricate in his evidence, or behave with contempt to the court, such court-martial may punish every such offender by imprisonment, ¹[or, if the offender is a person liable to be sentenced to detention under this Act, by detention,] not longer than three months in case of such refusal, neglect, or prevarication, nor longer than one month in the case of such contempt,

and every person not subject to this Act who may be so summoned to attend shall be allowed and paid his reasonable expenses for such attendance, under the authority of the Admiralty, or of the president of the court-martial on a foreign station

¹ Inserted by 9 Edw. 7, c. 41, schedule

67. Every person who upon any examination upon oath or upon affirmation before any court-martial held in pursuance of this Act shall wilfully and corruptly give false evidence shall be deemed guilty of wilful and corrupt perjury, and every such offence, wheresoever committed, shall be triable and punishable in England, and where any such offence committed out of England is tried in England, all statutes and laws applicable to cases of perjury shall apply to the case

Penalty on persons giving false evidence.

68. Where it shall appear upon the trial by court-martial of any person charged with an offence that such person is insane, the court shall find specially the fact of his insanity, and shall order such person to be kept in strict custody in such place and in such manner as the court shall deem fit until the directions of the Admiralty thereupon are known, and it shall be lawful for the Lords of the Admiralty to give orders for the safe custody of such person during Her Majesty's pleasure in such place and in such manner as they shall think fit

Custody of persons found insane at trial.

69. Every judge advocate, or deputy judge advocate, or person officiating as deputy judge advocate shall transmit with as much expedition as may be the original proceedings, or a complete and authenticated copy thereof, and the original sentence of every court-martial attended by him, to the Commander-in-Chief or senior officer, who shall transmit them to the secretary of the Admiralty for the time being;

Reports of proceedings of courts-martial to be transmitted

and any person tried by a court-martial shall be entitled, on demand, to a copy of such proceedings and sentence at any time not sooner than six months after the trial if the same takes place in the Mediterranean, three months if at any other naval station within Europe, and twelve months if elsewhere (upon payment for the same at the rate of four pence per folio of seventy-two words), but no such demand shall be allowed after the space of three years from the date of the final decision of such court

Persons tried entitled to copies of proceedings.

PART V

PENAL SERVITUDE AND PRISONS

Penal Servitude

70. Where a person is in pursuance of this Act convicted by a court-martial, and either is sentenced or has his sentence commuted to penal servitude, such conviction and sentence shall be of the same effect as if such person had been convicted by a civil court in the United Kingdom of an offence punishable by penal servitude and sentenced by

Sentence of penal servitude.

¹ Substituted for the original sections 70 and 71 by 47 & 48 Vict., c 39, s. 2

that court to penal servitude, and all enactments relating to a convict so sentenced shall, so far as circumstances admit, apply accordingly,

and the said convict shall be removed to some prison in which a convict so sentenced by a civil court in the United Kingdom can be confined either permanently or temporarily, and the order of the Admiralty or of the Commander-in-Chief, or of the officer ordering the court-martial by whom such person was convicted, shall be a sufficient warrant for the transfer of the said person to such prison to undergo his sentence according to law, and until he reaches such prison for ¹[detaining him] in naval custody or in any civil prison or place of confinement

71. [*Rep 47 & 48 Vict, c 39, s 8*]

72. In case any such offender shall be conveyed to any prison not being a naval prison appointed by virtue of this Act, an allowance such as the Admiralty shall from time to time direct shall be made to the governor, keeper, or superintendent of the gaol or prison for the subsistence of such offender ²[while he is detained] therein, and such allowance shall be paid by order of the Admiralty upon production by the said governor, keeper, or superintendent of a declaration, to be made by him before one of Her Majesty's justices of the peace of such county, of the number of days during which the offender has been so detained and subsisted in such gaol or prison

73. Whenever sentence shall be passed by a court-martial on an offender already under sentence either of ³[detention, imprisonment or] penal servitude passed upon him by a court-martial for a former offence, the court may award sentence of ⁴[detention,] imprisonment or penal servitude for the offence for which he is under trial, to commence at the expiration of the ⁴[detention,] imprisonment or penal servitude to which he has been previously sentenced, although the aggregate of the terms of ⁴[detention,] imprisonment or penal servitude may exceed the term for which ⁵[any] of those punishments could be otherwise awarded

⁶Provided that nothing in this section shall cause a person to undergo imprisonment ⁴[or detention] for any period exceeding ⁴[in the aggregate] two consecutive years, and so much of any term of imprisonment ⁴[or detention] imposed on a person by a sentence in pursuance of this section as would prolong ⁷[the total term of his punishment] beyond that period shall be deemed to be remitted

¹ Substituted for the words " his detention " by 9 Edw 7, c 41, schedule

² Substituted for the words " during his detention " by 9 Edw 7, c 41, schedule

³ Substituted for the words " imprisonment or of " by 9 Edw 7, c 41, schedule

⁴ Inserted by 9 Edw 7, c 41, schedule

⁵ Substituted for the word " either " by 9 Edw 7, c 41, schedule

⁶ The proviso was added by 47 & 48 Vict, c 39, s 4

⁷ Substituted for the words " his imprisonment " by 9 Edw 7, c, 41, schedule,

Subsistence
of offender.

Imprison-
ment of
offender
under
sentence for
previous
offence

Prisons.

¹74 (1) Every term of penal servitude, ²[imprisonment or detention] ^{Term and place of im-} in pursuance of this Act shall be reckoned as commencing on the day on which the sentence was awarded, and the place of imprisonment ³[or detention], whether the imprisonment ³[or detention] was awarded as an original or as a commuted punishment, shall be such place as may be appointed by the court or the commanding officer awarding the punishment, or which may from time to time be appointed by the Admiralty, or by the Commander-in-Chief or senior officer present on any foreign station, and may ³[in the case of imprisonment] be one of the naval prisons appointed under this Act ³[or naval detention quarters] or any common gaol, house of correction, or military prison ³[or detention barrack, and may, in the case of detention, be any naval detention quarters or a military detention barrack] within Her Majesty's dominions

(2) Where, by reason of a ship being at sea or off a place at which there is no proper prison ³[or naval detention quarters], a sentence of imprisonment ³[or detention, as the case may be,] cannot be duly executed, then, subject as herein-after mentioned, an offender under sentence of imprisonment ³[or detention, as the case may be,] may be sent with all reasonable speed to some place at which there is a proper prison ³[or naval detention quarters, or, in the case of an offender under sentence of detention, to some place at which there are naval detention quarters] in which the sentence can be duly executed, and on arrival there the offender shall undergo his sentence, in like manner as if the date of such arrival were the day on which the sentence was awarded, and that notwithstanding that in the meanwhile he has returned to his duty or become entitled to his discharge, and the term of imprisonment ³[or detention, as the case may be,] shall be reckoned accordingly, subject, however, to the deduction of any time during which he has been kept in confinement in respect of the said sentence

(3) Where in pursuance of this Act a person is sentenced to imprisonment ³[or detention] the order of the Admiralty or of the Commander-in-Chief, or of the officer ordering the court-martial by which such person was sentenced, or, if he was sentenced by the commanding officer of a ship, the order of such commanding officer, shall be a sufficient warrant for the sending of such person to the place of imprisonment ³[or detention], there to undergo his sentence according to law, and until he reaches such place of imprisonment ³[or detention] for ⁴[detaining him] in naval custody, or ³[in the case of a person sentenced to imprisonment] in any civil prison or place of confinement

¹ Sub sections (2) and (3) were added by 47 & 48 Vict., c 39, s 5

² Substituted for the words " or of imprisonment " by 9 Edw 7, c 41, schedule

³ Inserted by 9 Edw 7, c 41 schedule

⁴ Substituted for the words " his detention " by 9 Edw. 7, c 41, schedule

Place of imprisonment may be changed, etc

75. Whenever it is deemed expedient it shall be lawful for the Admiralty or any such Commander-in-Chief, by any order in writing, from time to time to change the place of confinement of any offender imprisoned or sentenced to be imprisoned or detained in pursuance of this Act ¹[or of any offender undergoing or sentenced to undergo detention],

and the gaoler or other person having the custody of such offender shall immediately on the receipt of such order remove such offender to the gaol, prison, or house of correction ¹[or, in the case of an offender undergoing or sentenced to undergo detention, to the naval detention quarters] mentioned in the said order, or shall deliver him over to naval custody for the purpose of the offender being removed to such prison ¹[or naval detention quarters],

and every gaoler or keeper of such last-mentioned prison, gaol, or house of correction ¹[or naval detention quarters] shall, upon being furnished with a copy of such order of removal, attested by the Secretary of the Admiralty for the time being, receive into his custody and shall confine pursuant to such sentence or order every such offender

Expenses of removal or subsistence of prisoners

76. The gaoler or other person removing any offender in pursuance of such order shall be allowed for the charges of such removal a sum not exceeding one shilling a mile,

and when any offender is not confined in a naval prison, ¹[or naval detention quarters] the gaoler or other person in whose custody any such offender may be shall receive such an allowance as the Admiralty shall from time to time direct for every day that such offender is in his custody, to be applied towards his subsistence;

and such sum shall be paid to the said gaoler or other person under the authority of the Admiralty, upon the application in writing made to the Secretary of the Admiralty by any justice for the county or place in which such gaol, prison, or house of correction shall be situate, with a copy of the sentence or order under which the ²[offender] is confined

77 [*Rep 47 & 48 Vict, c 39, s 8*]

Proviso for discharge or removal of prisoners

78 Whenever any ²[offender] is undergoing imprisonment ¹[or detention] in pursuance of this Act, it shall be lawful for the Admiralty, or any Commander-in-Chief on any foreign station, or where an offender ³[is undergoing imprisonment or detention] by order of his commanding officer, for such commanding officer or the Admiralty, or any such Commander-in-Chief, to give an order in writing directing that the ²[offender] be discharged,

¹ Inserted by 9 Edw 7, c. 41, schedule

² Substituted for the word "prisoner" by 9 Edw 7, c 41, schedule

³ Substituted for "has been imprisoned" by 9 Edw 7, c 41, schedule

and it shall also be lawful for the Admiralty, or any such Commander-in-Chief, and any officer commanding any of Her Majesty's ships, by order in writing, to direct that any such ¹[offender] be delivered over to naval custody for the purpose of being brought before a court-martial, either as a witness or for trial, or otherwise, and such ¹[offender] shall accordingly, on the production of any such order, be discharged, or be delivered over to such custody

79 The time during which any ¹[offender] under sentence of imprisonment ²[or detention] is detained in naval custody shall be reckoned as imprisonment ²[or detention] under his sentence, for whatever purpose ³[he is so detained], and the governor, gaoler, keeper, or superintendent who shall deliver over any such ¹[offender] shall again receive him from naval custody, so that he may undergo the remainder of his punishment

Proviso as to time of detention in naval custody

80. If any person imprisoned ²[or undergoing detention] by virtue of this Act shall become insane and a certificate to that effect shall be given by two physicians or surgeons, the Admiralty shall by warrant direct the removal of such person to such lunatic asylum or other proper receptacle for insane persons in the United Kingdom as they may judge proper for the unexpired term of his imprisonment ²[or detention], and if any such person shall in the same manner be certified to be again of sound mind, the Admiralty may issue a warrant for his being removed to such prison or place of confinement ²[or in the case of a person sentenced to detention, such naval detention quarters] as may be deemed expedient, to undergo the remainder of his punishment, and every gaoler or keeper of any prison, gaol, or house of correction shall receive him accordingly

In case of insanity, prisoners to be removed to some lunatic asylum

81 (1) The Admiralty may set apart any buildings or vessels, or any parts thereof, as naval prisons, ²[or naval detention quarters] and any buildings or vessels or parts of buildings or vessels so set apart ²[as naval prisons or naval detention quarters, as the case may be] shall be deemed to be naval prisons ²[and naval detention quarters respectively] within the meaning of this Act

Admiralty may set apart buildings and ships as naval prisons.

(2) The Admiralty shall have the same power and authority in respect to naval prisons ²[and naval detention quarters respectively] as one of Her Majesty's Principal Secretaries of State has in relation to military prisoners under section one hundred and thirty-three of the Army Act, and that section shall apply as if it were herein re-enacted with the substitution of "the Admiralty" for "a Secretary of State" and of "naval" for "military," ²[and of "naval detention quarters"]

¹ Substituted for the word "prisoner" by 9 Edw 7, c 41, schedule

² Inserted by 9 Edw 7, c 41, schedule

³ Substituted for the words "such detention takes place" by 9 Edw 7, c 41, schedule

⁴ Repealed in part by 47 & 48 Vict, c 39 s 8, sub section (2) was added by 47 & 48 Vict, c. 39, s 6

for "detention barrack"] and rules and regulations may be made accordingly by the Admiralty.

Penalties for
aiding escape
or attempt to
escape of
prisoners,
and on breach
of prison
regulations

82. If any person shall convey or cause to be conveyed into any such naval prison ¹[or any such naval detention quarters] any arms, tools, or instruments, or any mark or other disguise, to facilitate the escape of any prisoner ¹[or person undergoing detention] or by any means whatever shall aid any prisoner ¹[or person undergoing detention] to escape or in an attempt to escape from such prison ¹[or naval detention quarters] whether an escape be actually made or not, such person shall be deemed guilty of felony, and upon being convicted thereof shall be imprisoned with or without hard labour, for any term not exceeding two years, or suffer penal servitude for any term not exceeding fourteen years,

and if any person shall bring or attempt to bring into such prison, ¹[or naval detention quarters] in contravention of the rules, any spirituous or fermented liquor, he shall, for every such offence, be liable to a penalty not exceeding twenty pounds and not less than ten pounds,

and if any person shall bring into such prison ¹[or naval detention quarters] or to or for any prisoner ¹[or person undergoing detention] without the knowledge of the officer having charge or command thereof, any money, clothing, provisions, tobacco, letters, papers, or other articles not allowed by the rules of the prison ¹[or naval detention quarters] to be in the possession of a prisoner ¹[or person undergoing detention] or shall throw into the said prison ¹[or naval detention quarters] any such articles, or by desire of any prisoner ¹[or person undergoing detention] without the sanction of the said officer, shall carry out of the prison ¹[or naval detention quarters] any of the articles aforesaid, he shall for every such offence be liable to a penalty not exceeding five pounds;

and if any person shall interrupt any officer of such prison ¹[or naval detention quarters] in the execution of his duty, or shall aid or excite any person to assault, resist, or interrupt any such officer, he shall for every such offence be liable to a penalty not exceeding five pounds, or if the offender be a prisoner ¹[or person undergoing detention] he shall, upon conviction thereof before two justices of the peace, or not less than three of the visitors of the prison ¹[or naval detention quarters], be liable to be sentenced for every such offence to be imprisoned, either with or without hard labour and with or without solitary confinement, for any time not exceeding six calendar months in addition to so much of the time for which he was originally sentenced as may be then unexpired,

and every penalty which may be incurred under this section shall be recoverable in a summary manner,

¹ Inserted by 9 Edw 7, c 41, schedule.

and such two justices or three visitors are hereby authorized to issue warrants of distress and sale of the offender's goods, and every such penalty shall be applied as the Admiralty shall direct, any law, statute, charter, or custom to the contrary notwithstanding

83. Every governor, gaoler, and keeper of any prison, gaol, or house of correction, ¹[or of any naval detention quarters] and every officer having the charge or command of any place, ship, or vessel for imprisonment, who shall, without lawful excuse, refuse or neglect to receive or confine, remove, discharge or deliver up any offender against the provisions of this Act, or any of them, shall incur for every such refusal or neglect a penalty not exceeding one hundred pounds, to be recovered in a summary manner before two justices of the peace, Penalty on gaolers, etc., refusing to receive or discharge prisoners.

and such two justices are hereby authorized to issue warrants of distress and sale of the offender's goods, and every such penalty shall be applied as the Admiralty shall direct, any law, statute, charter, or custom to the contrary notwithstanding Recovery and application of penalties

PART VI.

SUPPLEMENTAL PROVISIONS

84 This Act may be cited for all purposes as *The Naval Discipline Act* ^{* 2} Short title

85 Except as otherwise provided, this Act shall be in force within the United Kingdom, [and as regards the United Kingdom the enactments described in the schedule to this Act shall be repealed from and after one calendar month from the passing hereof,]³ and as regards elsewhere this Act shall be in force [and the said enactment shall be repealed]³ from and after six calendar months from the passing hereof Commencement of Act

86 In the construction of this Act, unless there be something in the context or subject matter repugnant to or inconsistent with such construction, Interpretation of terms

* * * * *

“Officer” shall mean an officer belonging to one of Her Majesty's ships and shall include a subordinate and a warrant officer, but shall not extend to petty and non-commissioned officers

When the words “superior officer” are used in this Act, they shall be held to include all officers, including petty and non-commissioned officers

¹ Inserted by 9 Edw. 7, c. 41, schedule

² The figures “1866,” repealed by 47 & 48 Vict., c. 39, s. 8, have been omitted

³ The words in square brackets were repealed as to the U. K. by 56 & 57 Vict., c. 14 (S. L. R.)

⁴ Words repealed (U. K.) by 56 & 57 Vict., c. 14 (S. L. R.), have been omitted

Persons sub-
ject to this
Act

87. Every person in or belonging to Her Majesty's Navy, and borne on the books of any one of Her Majesty's ships in commission, shall be subject to this Act,

and all other persons hereby made liable thereto shall be liable and punishable under the provisions of this Act

Land forces
embarked on
Her
Majesty's
ships, how far
subject to this
Act

88 Her Majesty's land forces, when embarked on board any of Her Majesty's ships, shall be subject to the provisions of this Act to such extent and under such regulations as Her Majesty, * * *
* 1 by any Order or Orders in Council, shall at any time or times direct

Other persons
on board,
how far sub-
ject to this
Act

89 All other persons ordered to be received or being passengers on board any of Her Majesty's ships shall be deemed to be persons subject to this Act, under such regulations as the Admiralty may from time to time direct

Provisions
respecting
discipline in
hired ships in
Her Majes-
ty's service in
war

90 With respect to hired vessels in Her Majesty's service in time of war, being either armed or under the command of an officer in Her Majesty's naval service, the following provisions shall take effect if in any case the Admiralty think fit so to direct, and where such direction is given the same shall be specified in the ship's articles:

- (1) Every person borne on the books of any such hired vessel shall be subject to this Act
- (2) Any offence committed by any such person shall be tried and punished as the like offence might be tried and punished if committed by any person in or belonging to Her Majesty's Navy, and borne on the books of any of Her Majesty's ships in commission
- (3) Every such offender who is to be tried by court-martial shall be placed under all necessary restraint until he can be tried by court-martial
- (4) On application made to * * * * 1 the Admiralty, or to the Commander-in-Chief or senior officer of any of Her Majesty's ships or vessels of war abroad authorized to assemble and hold courts-martial, * * * * 1 the Admiralty, Commander-in-Chief, or senior officer (as the case may be) shall assemble and hold a court-martial, for the trial of the offender
- (5) The officer commanding every such hired vessel shall have the same power in respect of all other persons borne on the books thereof, or for the time being on board the same, as the officer commanding one of Her Majesty's ships has for the time being in respect of the officers and crew thereof, or other persons on board the same

* The words "her heirs and successors" in s. 88 and "the Lords of" occurring twice in s. 90 were repealed (U.K.) by 56 & 57 Vict, c. 14 (S.L.R.)

- (6) The naval Commander-in-Chief and senior naval officer in Her Majesty's service shall have the same powers over the officers and crew of every such hired vessel as they have for the time being over the officers and crew of any of Her Majesty's ships

91 When any one of Her Majesty's ships shall be wrecked or lost or destroyed, or taken by the enemy, such ship shall, for the purposes of this Act, be deemed to remain in commission until her crew shall be regularly removed into some other of Her Majesty's ships of war, or until a court-martial shall have been held, pursuant to the custom of the navy in such cases, to inquire into the cause of the wreck, loss, destruction, or capture of the said ship Crews of ships lost or destroyed

92 When no specific charge shall be made against any officer or seaman or other person in the fleet for or in respect or in consequence of such wreck, loss, destruction or capture, it shall be lawful to try all the officers and crew or all the surviving officers and crew of any such ship, together before one and the same court, and to call upon all or any of them when upon their trial to give evidence on oath or affirmation before the court touching any of the matters then under inquiry, All the officers and crew of lost ship may be tried by one court,

but no officer or seaman or other person shall be obliged to give any evidence which may tend to incriminate himself

93. When deemed necessary by the Admiralty, or any officer authorized to order courts-martial, separate courts-martial shall be held for the trial of some one or more of such officers and crew for or in respect or in consequence of the wreck, loss, destruction or capture of any such ship or by separate courts

94 For any offence or offences committed by any officer or seaman, or officers and seamen, after the wreck, loss, destruction, or capture of any such ship, a separate court-martial shall be held for the trial of such offender or offenders For subsequent offence, separate court

95 When any ship of Her Majesty shall be wrecked, lost, or otherwise destroyed, or taken by the enemy, if it shall appear by the sentence of a court-martial that the crew of such ship did, in the case of a ship wrecked or lost, do their utmost to save her or get her off, and in the case of a ship taken by the enemy did their utmost to defend themselves, and that they have, since the wreck, destruction, loss, or capture of such ship, behaved themselves well and been obedient to their officers, then all the pay of such crews, or of such portions of such crews as have behaved themselves well and been obedient to their officers, shall be continued until the time of their being discharged or removed into other ships of Her Majesty, or dying Pay of crews of ships lost or taken

96 If the ship of any officer ordered to command any two or more of Her Majesty's ships shall be wrecked, lost, or otherwise destroyed, When ship of senior officer is lost,

he may dispose of officers and crew of lost ship

such officer shall continue in the command of any ship or ships which at the time of his ship being wrecked, lost, or destroyed was or were under his command,

and it shall be lawful for such officer to order the surviving officers and crew of the wrecked, lost, or destroyed ship to join any other ship under his command or to distribute them among the other ships under his command, if more than one,

and such officer shall, until he meets with some other officer senior to himself, have the same power and authority in all respect as if his ship had not been wrecked, lost, or destroyed

Restriction on arrest of seamen, etc., for debt.

97. It shall not be lawful for any person to arrest any petty officer or seaman, non-commissioned officer of marines or marine, belonging to any ship of Her Majesty, by any warrant, process, or writ issued in any part of Her Majesty's dominions for any debt, unless the debt was contracted at a time when the debtor did not belong to Her Majesty's service, nor unless before the issuing of the warrant, process, or writ the plaintiff in the suit or some person on his behalf has made an affidavit in the court out of which it issued that the debt justly due to the plaintiff (over and above all costs) was contracted at a time when the debtor did not belong to Her Majesty's service, nor unless a memorandum of such affidavit is marked on the back of the warrant, process, or writ

Discharge from arrest.

98 If any petty officer or seaman, non-commissioned officer of marines or marine, is arrested in contravention of the provisions of the last foregoing section, the court out of which the warrant, process, or writ issues, or any judge thereof, may, on complaint by the party arrested, or by his superior officer, investigate the case on oath or otherwise, and if satisfied that the arrest was made in contravention of the provisions of the last foregoing section, may make an order for the immediate discharge of the party arrested, without fee, and may award to the complainant the costs of his complaint, to be taxed by the proper officer, for the recovery whereof he shall have the like remedy as the plaintiff in the suit would have on judgment being given in his favour, with costs

PART VII

SAVING CLAUSE

99 [Rep 38 & 39 Vict, c 66 (S L R)]

Nothing to take away prerogative of Crown, or right of Admiralty

100 Nothing in this Act shall take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of Her Majesty the Queen in right of her Crown, or in right of her office of Admiralty, or any right or power of the Admiralty

101. Nothing in this Act contained shall be deemed or taken to supersede or affect the authority or power of any court or tribunal of ordinary civil or criminal jurisdiction, or any officer thereof, in Her Majesty's dominions, in respect of any offence mentioned in this Act which may be punishable or cognizable by the common or statute law, or to prevent any person being proceeded against and punished in respect of any such offence otherwise than under this Act

Act not to supersede authority of ordinary courts as to offences punishable by common or statute law

Schedule

[*Rep as to U K 56 & 57 Vict., c. 14 (S L R) Omitted as being spent*]

THE STRAITS SETTLEMENTS ACT, 1866

(29 & 30 Vict., c. 115)

An Act to provide for the Government of the "Straits Settlements"

[10th August, 1866]

[*Preamble and enacting words Rep (U K) 56 & 57 Vict., c. 14 (S L R)*]

1. [*Providing that, at a time to be specified by Order in Council,¹ the Straits Settlements shall cease to be part of India, rep as to U K 56 & 57 Vict., c. 14 (S L R) Omitted as being inapplicable to India*]

2. * * * *² it shall be lawful for Her Majesty, by Order or Orders to be by her from time to time made with the advice of her said Privy Council, to establish all such laws, institutions, and ordinances, and to constitute such courts and officers, and to make such provisions and regulations for the proceedings in such courts, and for the administration of justice, and for the raising and expenditure of the public revenue, as may be deemed advisable for the peace, order, and good government of Her Majesty's subjects and others within the said settlements, or within any territory which may at any time be part of or dependent upon the same, any law, statute, or usage to the contrary in anywise notwithstanding

Power to Her Majesty in Council to make laws, constitute courts, etc

3. It shall be lawful for Her Majesty, from time to time, by any letters patent under the Great Seal of the United Kingdom, or by any

Power to Her Majesty to delegate her

¹ By Order in Council, dated 28th December, 1866, the Act was brought into operation as from 1st April, 1867.

² Words repealed (U K) by 56 & 57 Vict., c. 14 (S L R), have been omitted

powers and
authorities
to resident
officers, and
also her
powers and
authorities
as to
Labuan

instructions under Her Majesty's Signet and Sign Manual accompanying and referred to in any such letters patent, to delegate to any three or more persons within the said settlements, or within any part or dependency thereof, the powers and authorities so vested in Her Majesty in Council as aforesaid, either in whole or in part, and upon, under, and subject to all such conditions, provisos, and limitation, as by any such letters patent or instructions as aforesaid Her Majesty shall see fit to prescribe, and, subject as aforesaid, to empower such three or more persons to exercise in respect to the Island of Labuan and its dependencies all or any of the powers and authorities herein-before vested in Her Majesty in respect to the said settlements

Provided always that notwithstanding any such delegation or grant of authority as aforesaid, it shall still be competent to Her Majesty in Council in manner aforesaid to exercise all the powers and authorities, either by virtue of this Act or otherwise, vested in Her Majesty in Council

Existing laws
and officers
preserved

4. Until otherwise provided by Her Majesty in Council, or by such three or more persons as aforesaid, all laws or regulations (except the aforesaid Act of Parliament) which, when this Act shall come into operation, shall be in force in the said settlements and their dependencies and all proceedings of any court of justice had or to be had therein, shall be and continue to be of the same force and effect * * * * *

* *¹ as if this Act had not been passed

THE INDIAN RAILWAY COMPANIES ACT, 1868

(31 & 32 Vict, c 26)

An Act to enable certain guaranteed Indian Railway Companies to raise money on Debenture Stock

[29th May, 1868]

WHEREAS the railway companies severally known as the Great Indian Peninsula Railway Company, the East Indian Railway Company, the Madras Railway Company, the Bombay, Baroda, and Central India Railway Company, the Scinde Railway Company, the Eastern Bengal Railway Company, and the Oudh and Rohilcund Railway Company, Limited, were constituted and incorporated by Acts of Parliament, or by certificate under Act of Parliament, for the purpose of constructing, maintaining, and working railways in India, and the said companies have, under powers vested in them by their Acts or otherwise vested in

¹ Words repealed (U K) by 56 & 57 Vict, c 14 (S L R), have been omitted

them, entered into terminable contracts and arrangements with the East India Company, or with the Secretary of State in Council of India, with respect to their undertakings, and they have in exercise of such powers, with the sanction of the East India Company, or the Secretary of State in Council of India, raised capital by the issue of shares or stock, and have borrowed money for their undertakings on the security of mortgages or bonds

1. Each of the said companies may from time to time, with the sanction of the Secretary of State in Council of India, and of three-fifths of the votes of its share-holders and stock-holders entitled to vote in that behalf at meetings of the company, present in person or by proxy at any extraordinary meeting convened with notice of this purpose, raise all or any part of the money which for the time being the company has raised or is authorized to raise on mortgage or bond by the creation and issue at such times, in such amounts and manner, on such terms, at such price, subject to such conditions and with such rights and privileges, as the Secretary of State in Council of India shall think fit, of stock to be called debenture stock, instead of and to the same amount as the whole or any part of the money which may for the time being be owing by the company on mortgage or bond or which the company may from time to time have power to raise on mortgage or bond, and may, with such sanction of its share-holders and stock-holders as aforesaid, attach to the stock so created such fixed and perpetual, irredeemable, redeemable, variable, or other interest, at such rate, payable half-yearly or otherwise, and commencing at once or at any future time or times, when and as the debenture stock shall be issued or otherwise, as the Secretary of State in Council of India shall think fit

Power to Indian railway companies to create and issue debenture stock, in lieu of borrowing on mortgage or bond

2. All the provisions following shall apply to every case of one of the said companies exercising the power herein-before given for raising money by the creation and issue of debenture stock, (that is to say,)

Provisions applicable to debenture stock

- 1 The debenture stock, with the interest thereon, shall be a charge upon the undertaking of the company prior to all other stock or shares of the company, and shall be transmissible and transferable in the same manner and according to the same regulations and provisions as other stock of the company, and shall in all other respects have the incidents of personal estate
- 2 The interest on debenture stock shall have priority of payment over all dividends or interest on any other stock or shares of the company, and shall rank next to the interest payable on the mortgages or bonds for the time being of the company legally granted before the creation of such stock, but the holders of debenture stock shall not as among themselves be entitled to any preference or priority

- 3 The company shall cause entries of the debenture stock from time to time created to be made in a register to be kept for that purpose, wherein they shall enter the names and addresses of the several persons and corporations from time to time entitled to the debenture stock, with the respective amounts of the stock to which they are respectively entitled, and any instalments by which the price or subscription for any debenture stock may be made payable shall be recoverable as calls are recoverable under "The Companies Clauses Consolidation Act, 1845"
- 4 The company shall deliver to every holder of debenture stock a certificate stating the amount of debenture held by him, and all regulations or provisions for the time being applicable to certificates of shares in the capital of the company shall apply, *mutatis mutandis*, to certificates of debenture stock
- 5 Nothing herein contained shall in any way affect any mortgage or bond at any time legally granted by the company before the creation of such stock, or any power of the company to raise money on mortgage or bond, so far as such power is not by this Act expressly extinguished, but the holders of all such mortgages and bonds shall during the continuance thereof respectively be entitled to the same priorities, rights, and privileges in all respects as they would have been entitled to if this Act had not been passed
- 6 The debenture stock shall not entitle the holders thereof to be present or vote at any meeting of the company, or confer any qualification with reference to the government thereof, but shall in all respects not otherwise by this Act provided for be considered as entitling the holders to the rights and powers of mortgagees of the undertaking, other than the right to require payment of the principal money paid up in respect of the debenture stock. Provided always, that if on the issue of any such stock the company shall have agreed to repay the principal money at a fixed time, the holders thereof shall be entitled to be repaid their principal money at such fixed time
- 7 The money raised by debenture stock shall be applied exclusively either in paying off money due by the company on mortgage or bond, or else for the purposes to which the same money would be applicable if it were raised on mortgage or bond instead of on debenture stock. Provided always, that the receipt, disposal, and application of all monies raised by the debenture stock shall be at all times and in all respects subject to the supervision, direction, and control of the Secretary of State in Council of India.
- 8 Separate and distinct accounts shall be kept by the company, showing how much money has been received for or on account

Recovery of instalments by which the price is made payable

Company to deliver certificates to holders

Mortgagees, or power of raising by mortgage money not raised under this Act, not to be affected

Holders of stock not to vote, but to have rights of mortgagees, except right to repayment of principal, if the company agreed to repay at a fixed time

Application of money raised,

subject to supervision of Secretary of State

Separate accounts to be kept

of debenture stock, and how much money borrowed or owing on mortgage or bond for which they have power so to borrow has been paid off by debenture stock, or raised thereby instead of being borrowed on mortgage or bond

- 9 The powers of borrowing and reborrowing by the company shall to the extent of the nominal amount of the debenture stock for the time being issued be extinguished
- Borrowing
powers
extinguished
to extent of
amount of
debenture
stock issued

THE DOCUMENTARY EVIDENCE ACT, 1868

(31 & 32 Vict, c. 37.)

An Act to amend the Law relating to Documentary Evidence in certain cases

[25th June, 1868]

[*Preamble and enacting words Rep. (U K) 56 & 57 Vict, c 14*
(S L R)]

1. This Act may be cited for all purposes as “The Documentary Evidence Act, 1868”

2 Primâ facie evidence of any proclamation,¹ order, or regulation issued before or after the passing of this Act by Her Majesty, or by the Privy Council, also of any proclamation, order or regulation issued before or after the passing of this Act by or under the authority of any such department of the Government or officer as is mentioned in the first column of the schedule hereto, may be given in all courts of justice, and in all legal proceedings whatsoever, in all or any of the modes herein-after mentioned, that is to say

Mode of
proving ce
tain docu-
ments.

- (1) By the production of a copy of the Gazette purporting to contain such proclamation, order, or regulation
- (2) By the production of a copy of such proclamation, order, or regulation, purporting to be printed by the Government printer, or where the question arises in a court in any British colony or possession, of a copy purporting to be printed under the authority of the legislature of such British colony or possession
- (3) By the production, in the case of any proclamation, order, or regulation issued by Her Majesty or by the Privy Council,

¹ Read so as to include a warrant of the Treasury under the Post Office Act, 1908 See 8 Edw 7, c 48, s 36

of a copy or extract purporting to be certified to be true by the clerk of the Privy Council, or by any one of the lords or others of the Privy Council, and in the case of any proclamation, order, or regulation issued by or under the authority of any of the said departments or officers, by the production of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the said schedule in connexion with such department or officer

Any copy or extract made in pursuance of this Act may be in print or in writing, or partly in print and partly in writing

No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, or regulation

Act to be in
force in
colonies

3. Subject to any law that may be from time to time made by the legislature of any British colony or possession, this Act shall be in force in every such colony and possession

Punishment
for forgery, or
knowingly
tendering
forged docu-
ments in
evidence

4 If any person commits any of the offences following, that is to say,—

(1) Prints any copy of any proclamation, order, or regulation which falsely purports to have been printed by the Government printer or to be printed under the authority of the legislature of any British colony or possession, or tenders in evidence any copy of any proclamation, order, or regulation which falsely purports to have been printed as aforesaid, knowing that the same was not so printed, or

(2) Forges or tenders in evidence, knowing the same to have been forged, any certificate by this Act authorized to be annexed to a copy of or extract from any proclamation, order, or regulation,

he shall be guilty of felony, and shall on conviction be liable to be sentenced to penal servitude * * * * *

Interpreta-
tion

5. The following words shall in this Act have the meaning herein-after assigned to them unless there is something in the context repugnant to such construction, (that is to say,)

“British colony and possession” shall for the purposes of this Act include the Channel Islands, the Isle of Man and such territories as may for the time being be vested in Her Majesty by virtue of any Act of Parliament for the government of India, and all other Her Majesty’s dominions

¹ Rest of the section was repealed (U. K.) by 56 & 57 Vict, c. 14 (S. L. R.)

“Legislature” shall signify any authority, other than the Imperial Parliament or Her Majesty in Council, competent to make laws for any colony or possession

“Privy Council” shall include Her Majesty in Council and the lords and others of Her Majesty’s Privy Council, or any of them, and any committee of the Privy Council that is not specially named in the schedule hereto

“Government printer” shall mean and include the printer to Her Majesty, and any printer purporting to be the printer authorized to print the statutes, ordinances, acts of state, or other public acts of the legislature of any British colony or possession, or otherwise to be the Government printer of such colony or possession

“Gazette” shall include the London Gazette, the Edinburgh Gazette, and the Dublin Gazette, or any of such Gazettes

6. The provisions of this Act shall be deemed to be addition to, and not in derogation of, any powers of proving documents given by any existing statute or existing at common law

Provisions of Act to be cumulative

SCHEDULE

Column 1	Column 2
Name of Department or Officer	Names of Certifying Officers
The * * * Treasury	Any Commissioner, Secretary, or Assistant Secretary of the Treasury
The Commissioners for executing the office of Lord High Admiral	Any of the Commissioners for executing the office of Lord High Admiral, or either of the Secretaries to the said Commissioners
Secretaries of State	Any Secretary or Under-Secretary of State
Committee of Privy Council for Trade	Any member of the Committee of Privy Council for Trade, or any Secretary or Assistant Secretary of the said Committee
The Poor Law Board	Any Commissioner of the Poor Law Board, or any Secretary or Assistant Secretary of the said Board

1 Read so as to include “Postmaster General” in column 1, and “any Secretary or Assistant Secretary of the Post Office” in column 2 See 8 Edw 7, c 48, s 36

2 The words “Commissioners of the” were repealed (U K) by 56 & 57 Vict, c 14 (S L R)

THE INDIAN PRIZE MONEY ACT, 1868

(31 & 32 Vict., c. 38)

An Act for the Appropriation of certain unclaimed Shares of Prize Money acquired by Soldiers and Seamen in India

[25th June, 1868]

[Enacting words Rep (U K) 56 & 57 Vict, c 14 (S L R)]

Shares of
prize money
placed to
credit of reve-
nues of India,
in England
or India,
subject to be
refunded to
persons
establishing
claims there-
to

1. All and every shares and share of booty, prize money, head money, bounty money, and salvage money, and of money, * * *¹ which shall * * *² arise from, or which * * *³ shall * * *² be distributable in respect of, any capture or other warlike service whatsoever which * * *⁴ shall * * *² be made or performed, and to which shares or share any officer; soldier, sailor, or other person at any time in or belonging or having belonged to the forces of the East India Company, to Her Majesty's Indian staff corps, or to Her Majesty's local Indian forces, European or native, * * *³ shall * * *² be entitled, in whatsoever service the same may have been acquired, and which shares or share * * *⁵ shall * * *² come into the hands, of any prize agent or agents, or any other person whomsoever, shall be paid, according to the residence of the party or parties paying the same, either in London into the Bank of England to the account of the Secretary of State in Council of India, or in India into such places and in such manner as the Government in India shall direct;

and all sums of money when so paid shall be placed to the credit of the revenues of India, and shall for all purposes form part of such revenues and be applicable in all respects as such revenues are or shall be applicable, subject, nevertheless, to be refunded, without interest, to any person or persons entitled to the same, and establishing his, her, or their claim or claims thereto to the satisfaction of the Secretary of State in Council of India

Time within
which pay-
ment is to be
made

2. * * *⁶ all money which shall * * *² come into the hands of any prize agent or prize agents, or any other person or persons whomsoever, and which is hereby directed to be paid and be placed to the credit of the revenues of India, whether the same shall be to be paid in England or in India, shall be paid within two calendar months next after the receipt thereof by such prize agent or agents or other person or persons

^{1, 2, 3, 4, 5} The words "arisen or," "hereafter," "is now or," "has heretofore been or," "have come into and are now remaining in the hands, or" were repealed (U K) by 56 & 57 Vict, c 14 (S L R)

⁶ Words repealed (U K) by 38 & 39 Vict, c 66 (S L R), have been omitted

3. The Secretary of State in Council of India shall have and may exercise the same or the like powers, rights, and remedies, so far as the same shall be applicable, for discovery and recovery of and otherwise in relation to or in respect of the monies hereby directed to be paid and to be placed to the credit of the revenues of India, as the Commissioners or the Treasurer for the time being of Chelsea Hospital, or the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral, or any other persons or person, or any corporation entitled to or interested in any prize money acquired by or due to any officers, soldiers, or seamen in or belonging to Her Majesty's European military or naval forces, have or can exercise, by virtue of any Act or Acts now in force for the discovery or recovery of or otherwise in relation to or in respect of such last-mentioned prize money, and all courts of law and equity and of Admiralty jurisdiction in the United Kingdom and in India shall have and may exercise the same or the like jurisdiction, powers and authorities, for compelling every person to account for and pay over the monies hereby directed to be paid and be placed to the credit of the revenues of India, as any court of law or equity or of Admiralty jurisdiction may now exercise with respect to any prize money acquired by or belonging to any such officers, soldiers or seamen as last aforesaid, and every person who is required by this Act to pay over any share or shares shall be subject to the like liability to account for the same, and to the like fines and penalties for neglect or default in not accounting for the same and otherwise, as agents or other persons are by any Act or Acts now in force subject to in respect of any shares or balances of prize money acquired by or belonging to any such officers, soldiers, or seamen as last aforesaid

Discovery
and recovery
of prize
monies,

4. Nothing in this Act contained shall prevent any person or persons from resorting to any remedy at law or in equity against the Secretary of State in Council of India for the recovery of principal without interest of any money to which he or they may be entitled, and which shall be paid in manner herein-before directed, and placed to the credit of the revenues of India, provided such person or persons shall prefer his or their claim thereto to the Secretary of State in Council of India within six years from the respective times at which the same money shall be so paid as aforesaid

Saving of
rights of
person to
recover
within six
years of pay-
ment, any
prize money
to which he
may be
entitled.

5. Nothing herein contained shall take away or affect any right which the Secretary of State in Council of India now has, or if this Act had not been passed, would at any time have had, to or in respect of any monies hereby directed to be paid, nor shall diminish, abridge, or prejudice any rights, powers, or remedies which the Secretary of State in Council of India has, or if this Act had not been passed would have had or could at any time have enforced for the discovery or recovery of the same monies or any of them.

Saving rights
or powers of
Secretary of
State

SIR ROBERT NAPIER'S ANNUITY

(31 & 32 Vict., c. 91)

*An Act to settle an Annuity upon Lieutenant-General Sir Robert Napier, G C B , G C S I , and the next surviving Heir Male of his Body, in consideration of his eminent Services*¹

[31st July, 1868]

THE EAST INDIA IRRIGATION AND CANAL ACT, 1869.

(32 & 33 Vict., c. 7.)

An Act for the Confirmation and Execution of Arrangements made between the Secretary of State in Council of India and the East India Irrigation and Canal Company, and for other Purposes connected therewith [19th April, 1869]

WHEREAS the East India Irrigation and Canal Company (in this Act and the schedule thereto called the company) were by the East India Irrigation and Canal Act, 1861, incorporated for the purposes therein mentioned, including the following, namely,—

The construction, improvement, maintenance, and management of works for the irrigation of land, combined, wherever such combination might be considered practicable and advantageous, with navigable canals, and of navigable canals, within the dominions of Her Majesty the Queen known as the East Indies, or in any of the adjacent states and territories

The rendering navigable and improving the navigation of rivers or waters within such dominions, states, and territories

The construction, improvement, maintenance, and management of works for the supply of water, and the supply of water to the Secretary of State in Council of India or the supreme or any of the local governments of India, or to any body or person

The obtaining of all powers, the entering into all contracts, and the doing of all things expedient for or incidental, necessary, or conducive to the attainment of those purposes or any or either of them, either by the company alone, or jointly with any other company, or in conjunction with the Secretary of State in Council or the supreme or any of the local or native governments of India, or any other body or person,

with a proviso that only such of the purposes aforesaid should be carried into operation as should be agreed on between the company and the Secretary of State in Council or the supreme or any of the local governments of India

¹ It has been thought sufficient to print the title of this Statute.

And whereas by agreement with the Secretary of State in Council the company undertook the execution of a scheme of works for irrigation, navigation, and supply of water and other purposes in the districts and deltas of the rivers Mahanuddy, Byturny and Brahmany, in the province of Orissa and their affluents, and a main irrigation and navigable canal to connect those works with Calcutta, with subsidiary channels necessary to irrigate and accommodate with means of water transport the lands of the districts through which the main canal would pass, which scheme of works is known as the Orissa undertaking

And whereas by the East India Irrigation and Canal Act, 1866, provision was made to the effect that the Orissa undertaking should be deemed a separate undertaking of the company, and that the capital then already issued by the company should be appropriated for the purposes of that undertaking, and with all further capital which the company might thereafter issue for that undertaking, should be called the Orissa capital, and should be kept separate and distinct from the other capital of the company, and that the income to be derived from the outlay of that capital should be kept separate and distinct from the other income of the company

And whereas by another agreement with the Secretary of State in Council the company undertook the execution of a scheme of works (similar in character to those of the Orissa undertaking) in the province of Behar starting from the Soane river, and embracing territory between that river and Chunar on the one side, and Patna on the other side, which scheme of works is known as the Behar undertaking, but no capital has been created in respect of that undertaking

And whereas it having appeared to the Secretary of State in Council and to the company expedient that the company should transfer to the Secretary of State in Council the Orissa undertaking and the Behar undertaking and all the rights and interests of the company therein respectively, agreements for such transfer have been made on the terms appearing in the three instruments described in the schedule to this Act, and those instruments purport to carry into effect or to provide for such transfer, but doubts have been raised whether the company had power to enter into the said agreements and it is expedient that provision be made by authority of Parliament for the execution thereof

May it therefore please Your Majesty that it may be enacted, and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present Parliament assembled, and by the authority of the same, as follows

1 This Act may be cited as "The East India Irrigation and Canal Short title Act, 1869"

Instruments described in schedule confirmed

2. The three several instruments described in the schedule to this Act (in this Act referred to as the scheduled instruments) are hereby confirmed as on and from their respective dates, and the same shall be, and shall as from those dates respectively be deemed to have been, valid as between the Secretary of State in Council and the company and binding on them respectively, and shall be carried into execution accordingly

Certain receipts to discharge Secretary of State from liabilities.

3. A receipt under the common seal of the company, countersigned by the secretary of the company, for any money payable by the Secretary of State in Council to the company or the directors thereof, under the scheduled instruments or any of them, shall effectually discharge the Secretary of State in Council from the money therein expressed to be received, and from all liability in respect thereof,

and the Secretary of State in Council shall not be concerned to see to the application or responsible for any loss or misapplication thereof

Application of money paid for Orissa undertaking

4. The directors of the company shall hold all principal money by the first-mentioned of the scheduled instruments stipulated to be paid to them for and on behalf of the shareholders in the Orissa undertaking by the Secretary of State in Council, when the same is received by them and all interest received by them in respect thereof from the Secretary of State in Council, on trust, to distribute the same among the holders of shares or stock in the Orissa capital, their executors, administrators, or assigns, rateably according to the amounts paid on or in respect of their shares or stock

Who to be deemed shareholders

5 The persons who appear in the books of the company to be proprietors of shares or stock in the Orissa capital shall, unless the contrary is proved to the satisfaction of the directors of the company, be considered to be holders of shares or stock in the Orissa capital for the purposes of the distribution of money in pursuance of this Act,

and where any share in the Orissa capital has been declared forfeited by the company, but has not been sold, the same shall for the purposes of the schedule instruments, but not further or otherwise, be deemed to have reverted as on the twenty-seventh day of November one thousand eight hundred and sixty-eight to the persons to whom the same belonged at the time of forfeiture

Receipts of executors, etc., effectual discharges.

6. The receipt of an executor or administrator of a deceased holder of any share or stock in the Orissa capital, and the receipt of any person competent under the Acts relating to the company to give a discharge to the company for any money payable in respect of any such share or stock, shall be an effectual discharge to the company and to the directors thereof for any money payable under this Act in respect of any such share or stock and in any such receipt expressed to be received, and shall exonerate the company and the directors thereof from any obligation affecting the share or stock in respect of which such money is paid, or in anywise relating to that money.

7. On receipt by the several holders of shares or stock in the Orissa capital of their respective proportions of the money distributable among them under the scheduled instruments or any of them, those several shareholders or stockholders (except such of them as are for the time being acting as members of a committee for executing any resolution passed by the company before the passing of this Act under or in contemplation of the scheduled instruments or any of them) shall respectively cease to be members of the company as holders of such shares or stock, and the shares or stock held by them shall be deemed to be extinguished, and the Orissa capital shall be reduced accordingly, and as soon as all money received by the directors of the company in respect of the Orissa undertaking under the scheduled instruments or any of them has been distributed in manner directed by the scheduled instruments or any of them or by this Act, and the affairs of the Orissa undertaking have been wound up, then by virtue of this Act the Orissa undertaking shall cease to be part of the undertaking of the company, and the Orissa capital shall cease to exist, and the holder of shares or stock therein excepted as aforesaid shall cease to be as such members of the company, and as from the passing of this Act so much of the nominal Orissa capital as is not subscribed for shall be deemed to be extinguished

Discontinu-
ance of Orissa
capital

The SCHEDULE to which the foregoing Act refers

INSTRUMENTS CONFIRMED

1. Articles of agreement dated the 30th day of November, 1868, made between the Secretary of State in Council of the one part and the company of the other part, being under the hands and seals of William Urquhart Arbuthnot and Sir Robert Montgomery, K C B , G C S I , two members of the Council of India, on behalf of the Secretary of State in Council, and under the seal of the company

2. An indenture dated the 21st day of December, 1868, made between the company of the one part and the Secretary of State in Council of the other part, being under the seal of the company, and under the hands and seals of William Urquhart Arbuthnot and Sir Robert Montgomery, K C B , G C S I , two members of the Council of India, on behalf of the Secretary of State in Council

3 Articles of agreement dated the 21st day of December, 1868, indorsed on the first-mentioned articles of agreement, and made between the same parties as those articles, being under the hands and seals of William Urquhart Arbuthnot and Sir Robert Montgomery, K C B , G C S I , two members of the Council of India, on behalf of the Secretary of State in Council, and under the seal of the company.

BISHOPRIC OF STRAITS SETTLEMENTS.

(32 & 33 Vict., c. 88.)

*An Act for the separation of the Straits Settlements from the Diocese of Calcutta*¹

[9th August, 1869]

WHEREAS by an Act of the session of the twenty-ninth and thirtieth years of the reign of Her present Majesty, chapter one hundred and fifteen, and by an Order in Council of the twenty-second day of December one thousand eight hundred and sixty-six, made in pursuance of the said Act, the islands and territories known as the "Straits Settlements," namely, Prince of Wales Island, the Island of Singapore, and the town and fort of Malacca, and their dependencies, ceased to be part of India for the purposes and within the meaning of an Act of the session of the twenty-first and twenty-second years of the reign of Her present Majesty, chapter one hundred and six

Recital of 53
Geo. 3, c. 155,
and 3 & 4
Will 4, c. 85

And whereas by virtue of an Act passed in the session of the fifty-third year of the reign of King George the Third, chapter one hundred and fifty-five, and of another Act of the session of the third and fourth years of the reign of King William the Fourth, chapter eighty-five, and of letters patent under the great seal of the United Kingdom, bearing date respectively the second day of May one thousand eight hundred and fourteen, the thirteenth day of June one thousand eight hundred and thirty-five and the first day of October one thousand eight hundred and thirty-seven, the said Straits Settlements were before the passing of the said first recited Act and still are part of the diocese of Calcutta, and subject to the metropolitanical authority of the bishop of that diocese

And whereas it is expedient that the said Straits Settlements should be separated from the said diocese and cease to be subject to such metropolitanical authority

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal and commons, in this present Parliament assembled, and by the authority of the same, as follows

Separation
of Straits
Settlements
from diocese
of Calcutta

1. The said recited Acts of Parliament of the reigns of King George the Third and King William the Fourth and the said letters patent shall no longer apply to the said Straits Settlements,

and the said Straits Settlements shall from the passing of this Act cease to be part of the said diocese of Calcutta and to be subject to the metropolitanical authority of the bishop of that diocese

¹Repealed as to U. K. by 56 & 57 Vict., c. 54 (S. L. R.) Spent.

THE GOVERNMENT OF INDIA ACT, 1869

(32 & 33 Vict, c 97)

An Act to amend in certain respects the Act for the better Government of India

[11th August, 1869]

[Preamble reciting 21 & 22 Vict, c 106, and enacting words Rep (U K.) 56 & 57 Vict, c 54 (S L R)]

1 1 * * * * all vacancies that shall take place in the said Council shall be filled up by appointment by the Secretary of State

Vacancies in Council of India

2. Every member of the said Council * * * * 2 shall be appointed for a term of ³ten years, and except as herein-after provided, shall not be re-eligible

3 It shall be lawful for the Secretary of State to re-appoint for a further period of five years any person whose term of office as member of Council under this Act shall have expired, provided such re-appointment be made for special reasons of public advantage, which reasons shall be set forth in a minute signed by the said Secretary of State, and laid before both Houses of Parliament

Re appointment of member for further period of five years

4 Except as herein otherwise provided all the provisions of the said recited Act, and of any other Act of Parliament relating to members of the Council of India, shall apply to members appointed under the provisions of this Act

Former Acts to apply to future members

5 [*Rep as to U K 46 & 47 Vict, c 39 (S L R) Omitted as being spent*]

6. Any member of Council may by writing under his hand, which shall be recorded in the minutes of the Council, resign his office, 4 * * of office

Resignation of office

7. If at any time hereafter it should appear to Parliament expedient to reduce the number or otherwise to deal with the constitution of the said Council, no member of Council who has not served in his office for a period of ten years shall be entitled to claim any compensation for the loss of his office, or for any alteration in the terms and condition under which the same is held

Provision as to future changes in constitution of Council

8 The appointments of the ordinary members of the Governor General's Council, and of the members of Council of the several presidencies 5* * * shall 1* * * * be made by Her Majesty by warrant under her Royal Sign Manual

Appointment of ordinary member of the Governor General's Council and of the presidencies

^{1, 2} The words " After the passing of this Act " in s 1 and s 8 and the words " who shall, after the passing of this Act, be so appointed " in s 2 were repealed (U K) by 56 & 57 Vict, c 54 (S L R)

³ Read " seven " for " ten " as regards any appointment made after the passing of the Council of India Act, 1907 (7 Edw 7, c 35) See 7 Edw 7, c 35, s 4

⁴ The rest of the section relating to grant of pension to retiring members was repealed (U K) by 56 & 57 Vict, c 54 (S L R)

⁵ The words " which, by section 29 of the said recited Act, are to be made by the Secretary of State in Council, with the concurrence of a majority of members present at a meeting " were repealed (U K) by 46 & 47 Vict, c 39 (S L R)

THE INDIAN COUNCILS ACT, 1869

(32 & 33 Vict., c. 98.)

An Act to define the powers of the Governor General of India in Council at meetings for making laws and regulations for certain purposes.

[11th August, 1869]

WHEREAS doubts have arisen as to the extent of power of the Governor General of India in Council to make laws binding upon native Indian subjects beyond the Indian territories under the dominion of Her Majesty * * * [The rest of the preamble and enacting words were repealed (U K) by 56 & 57 Vict., c. 54 (S. L. R).]

Power to make laws for native Indian subjects beyond the Indian territories

1 * * * the Governor General of India in Council shall have power at meetings for the purpose of making laws and regulations to make laws and regulations for all persons being native Indian subjects of Her Majesty, ²* * *, without and beyond as well as within the Indian territories under the dominion of Her Majesty

2 [Rep 46 & 47 Vict., c. 39 (S. L. R)]

Power to repeal or amend certain sections of 3 & 4 Will 4, c. 85

3 Notwithstanding anything in the Indian Councils Act or in any other Act of Parliament contained, any law or regulation which shall hereafter be made by the Governor General in Council in manner in the said Indian Councils Act provided shall not be invalid by reason only that it may repeal or affect any of the provisions of the Government of India Act, 1833, contained in sections ³* * * eighty-four ⁴* * * and eighty-six of the said Act

THE EAST INDIA LOAN ACT, 1869

(32 & 33 Vict., c. 106)

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[11th August, 1869]

[Preamble and enacting words Rep (U K) 56 & 57 Vict., c. 54 (S. L. R)]

1. [Empowering Secretary of State to raise loan, rep as to U K. 56 & 57 Vict., c. 54 (S. L. R) Omitted as being inapplicable to India]

Debentures transferable by delivery or deed

5. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest

¹ The words "From and after the passing of this Act" were repealed (U K) by 56 & 57 Vict., c. 54 (S. L. R)

² The words "her heirs and successors" were repealed (U K) by 56 & 57 Vict., c. 54 (S. L. R)

³ The words "eighty one, eighty two, eighty three" were repealed (U K) by 56 & 57 Vict., c. 54 (S. L. R)

⁴ The word "eighty five" was repealed (U K) by 56 & 57 Vict., c. 54 (S. L. R)

monies secured thereby, shall be transferable by the delivery of such debentures, and the coupons for interest annexed to any debenture issued under the authority of this Act shall also pass by delivery Coupons by delivery

16. Any capital stock created under this Act shall be deemed to be East India stock, within the Act twenty-second and twenty-third Victoria, chapter thirty-five, section thirty-two, unless and until Parliament shall otherwise provide ¹ East India Stock

THE GOVERNMENT OF INDIA ACT, 1870

(33 & 34 Vict., c. 3)

An Act to make better Provision for making Laws and Regulations for certain parts of India, and for certain other purposes relating thereto

[25th March, 1870].

[Preamble reciting 24 & 25 Vict., c. 67, and enacting words Rep (U K) 56 & 57 Vict., c. 54 (S L R)]

1 Every governor of a presidency in council, lieutenant governor or chief commissioner, whether the governorship, or lieutenant governorship, or chief commissionership be now in existence or may hereafter be established, shall have power to propose to the Governor General in council drafts of any regulations, together with the reasons for proposing the same, for the peace and government of any part or parts of the territories under his government or administration to which the Secretary of State for India shall from time to time by resolution in council declare the provisions of this section to be applicable from any date to be fixed in such resolution Power to executive Government of British India to make regulations for certain parts thereof

And the Governor General in council shall take such drafts and reasons into consideration, and when any such draft shall have been approved of by the Governor General in council, and shall have received the Governor General's assent, it shall be published in the Gazette of India and in the local Gazette, and shall thereupon have like force of law and be subject to the like disallowances as if it had been made by the Governor General of India in council at a meeting for the purpose of making laws and regulations

The Secretary of State for India in council may from time to time withdraw such power from any governor, lieutenant governor or chief commissioner, on whom it has been conferred, and may from time to time restore the same as he shall think fit

¹ The rest of this Act (ss 2 to 4, 6 to 13 and 15) is omitted as being identical with the corresponding sections of 23 & 24 Vict., c. 130

Copies of regulations to be sent to Secretary of State Subsequent enactments to control regulations.

Lieutenant governors and chief commissioners to be members *ex-officio* of the Governor General's council for the purpose of making laws and regulations. Sect. 49 of 3 & 4 Will 4, c. 85, repealed.

Procedure in case of difference between the Governor General and the majority of his council

Power to appoint natives of India to certain offices without certificate from the civil service commissioners.

2. The Governor General shall transmit to the Secretary of State for India in council an authentic copy of every regulation which shall have been made under the provisions of this Act, and all laws or regulations hereafter made by the Governor General of India in council, whether at a meeting for purpose of making laws and regulations, or under the said provisions, shall control and supersede any regulation in any wise repugnant thereto which shall have been made under the same provisions.

3 Whenever the Governor General in council shall hold a meeting for the purpose of making laws and regulations at any place within the limits of any territories now or hereafter placed under the administration of a lieutenant governor or a chief commissioner, the lieutenant governor or chief commissioner respectively shall be *ex-officio* an additional member of the council of the Governor General for that purpose in excess (if necessary) of the maximum number of twelve specified by the said Act.

4. [Rep 46 & 47 Vict, c 39 (S L R)]

5 Whenever any measure shall be proposed before the Governor General of India in council whereby the safety, tranquillity, or interests of the British possessions in India, or any part thereof, are or may be, in the judgment of the said Governor General, essentially affected, and he shall be of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority in council then present shall dissent from such opinion, the Governor General may, on his own authority and responsibility, suspend or reject the measure in part or in whole, or adopt and carry it into execution, but in every such case any two members of the dissentient majority may require that the said suspension, rejection, or adoption, as well as the fact of their dissent, shall be notified to the Secretary of State for India, and such notification shall be accompanied by copies of the minutes (if any) which the members of the council shall have recorded on the subject.

6. Whereas it is expedient that additional facilities should be given for the employment of natives of India, of proved merit and ability, in the civil service of Her Majesty in India

Be it enacted, that nothing in the Government of India Act, 1858, or 21 & 22 V c 106 in the Indian Civil Service Act, 1861, or in any other Act of Parliament 24 & 25 V c 54, or other law now in force in India, shall restrain the authorities in India by whom appointments are or may be made to offices, places, and employments in the civil service of Her Majesty in India from appointing any native of India to any such office, place, or employment, although such native shall not have been admitted to the said civil service of India in manner in section thirty-two of the first-mentioned Act provided, but subject to such rules as may be from time to time prescribed by the Governor General in council, and sanctioned by the Secretary of State in council, with the concurrence of a majority of members present.

and that for the purpose of this Act the words "native of India" shall include any person born and domiciled within the dominions of Her Majesty in India, of parents habitually resident in India, and not established there for temporary purposes only, and that it shall be lawful for the Governor General in Council to define and limit from time to time the qualifications of natives of India thus expressed

Provided that every resolution made by him for such purpose shall be subject to the sanction of the Secretary of State in Council, and shall not have force until it has been laid for thirty days before both Houses of Parliament

THE COINAGE ACT, 1870

(33 & 34 Vict., c. 10)

An Act to consolidate and amend the law relating to the Coinage and Her Majesty's Mint

[4th April, 1870]

[*Preamble and enacting words* Rep (U K) 56 & 57 Vict., c. 54 (S L R)]

1. This Act may be cited as "The Coinage Act, 1870"

Short title

2 In this Act—

¹ the term "Treasury" means the Lord High Treasurer for the time being, or the Commissioners of Her Majesty's Treasury for the time being, or any two of them, Definitions of terms

the term "the Mint" means, except as expressly provided, Her Majesty's Royal Mint in England,

the term "British possession" means any colony, plantation, island, territory, or settlement within Her Majesty's dominions and not within the United Kingdom, and

the term "person" includes a body corporate

3 All coins made at the Mint of the denominations mentioned in the first schedule to this Act shall be of the weight and fineness specified in that schedule, and the standard trial plates shall be made accordingly Standard of coins.

If any coin of gold, silver, or bronze, but of any other denomination than that of the coins mentioned in the first schedule to this Act, is hereafter coined at the Mint, such coin shall be of a weight and fineness bearing the same proportion to the weight and fineness specified in that schedule as the denomination of such coin bears to the denominations mentioned in that schedule

Provided that in the making of coins a remedy (or variation from the standard weight and fineness specified in the said first schedule)¹ shall be allowed of an amount not exceeding the amount specified in that schedule

Legal tender.

4. A tender of payment of money, if made in coins which have been issued by the Mint in accordance with the provisions of this Act, and have not been called in by any proclamation made in pursuance of this Act, and have not become diminished in weight, by wear or otherwise, so as to be of less weight than the current weight, that is to say, than the weight (if any) specified as the least current weight in the first schedule to this Act, or less than such weight as may be declared by any proclamation made in pursuance of this Act, shall be a legal tender,—

in the case of gold coins for a payment of any amount

in the case of silver coins for a payment of an amount not exceeding forty shillings, but for no greater amount

in the case of bronze coins for a payment of an amount not exceeding one shilling, but for no greater amount

Nothing in this Act shall prevent any paper currency which under any Act or otherwise is a legal tender from being a legal tender

Prohibition
of other
coins and
tokens

5. No piece of gold, silver, copper, or bronze, or of any metal or mixed metal, of any value whatever, shall be made or issued, except by the Mint, as a coin or a token for money, or as purporting that the holder thereof is entitled to demand any value denoted thereon. Every person who acts in contravention of this section shall be liable on summary conviction to a penalty not exceeding twenty pounds

Contracts,
etc., to be
made in
currency

6. Every contract, sale, payment, bill, note, instrument, and security for money, and every transaction, dealing, matter, and thing whatever relating to money, or involving the payment of or the liability to pay any money, which is made, executed, or entered into, done or had, shall be made, executed, entered into, done and had according to the coins which are current and legal tender in pursuance of this Act, and not otherwise, unless the same be made, executed, entered into, done or had according to the currency of some British possession or some foreign state.

Defacing
light gold
coin.

7. Where any gold coin of the realm is below the current weight as provided by this Act, or where any coin is called in by any proclamation, every person shall, by himself or others, cut, break, or deface any such coin tendered to him in payment, and the person tendering the same shall bear the loss

If any coin cut, broken, or defaced in pursuance of this section is not below the current weight, or has not been called in by any proclamation, the person cutting, breaking, or defacing the same shall receive the same in payment according to its denomination. Any dispute which may arise under this section may be determined by a summary proceeding

¹ For amendment of schedule, see 54 & 55 Vict., c. 72, s. 2, *ante*, p. 906.

8 Where any person brings to the Mint any gold bullion, such bullion shall be assayed and coined, and delivered out to such person, without any charge for such assay or coining, or for waste in coinage. Coining of bullion taken to the Mint.

Provided that—

- (1) if the fineness of the whole of the bullion so brought to the Mint is such that it cannot be brought to the standard fineness under this Act of the coin to be coined thereout, without refining some portion of it, the master of the Mint may refuse to receive, assay, or coin such bullion
- (2) where the bullion so brought to the Mint is finer than the standard fineness under this Act of the coin to be coined thereout, there shall be delivered to the person bringing the same such additional amount of coin as is proportionate to such superior fineness

No undue preference shall be shown to any person under this section, and every person shall have priority according to the time at which he brought such bullion to the Mint

9 The Treasury may from time to time issue to the master of the Mint, out of the growing produce of the Consolidated Fund such sums as may be necessary to enable him to purchase bullion in order to provide supplies of coin for the public service Purchase of bullion

- (6) to direct that any coins, other than gold, silver, or bronze, shall be current and be a legal tender for the payment of any amount not exceeding the amount specified in the proclamation, and not exceeding five shillings
- (7) to direct that coins coined in any foreign country shall be current and be a legal tender, at such rates, up to such amounts, and in such portion of Her Majesty's dominions as may be specified in the proclamation, due regard being had in fixing those rates to the weight and fineness of such coins, as compared with the current coins of this realm:
- (8) to direct the establishment of any branch of the Mint in any British possession, and impose a charge for the coinage of gold thereat, determine the application of such charge, and determine the extent to which such branch is to be deemed part of the Mint, and to which coins issued therefrom are to be current and be a legal tender, and to be deemed to be issued from the Mint
- (9) to direct that the whole or any part of this Act shall apply to and be in force in any British possession, with or without any modifications contained in the proclamation
- (10) to regulate any matters relative to the coinage and the Mint within the present prerogative of the Crown which are not provided for by this Act
- (11) to revoke or alter any proclamation previously made

Every such proclamation shall come into operation on the date therein in that behalf mentioned, and shall have effect as if it were enacted in this Act

the **12.** For the purpose of ascertaining that coins issued from the Mint have been coined in accordance with this Act, a trial of the pyx shall be held at least once in every year in which coins have been issued from the Mint

It shall be lawful for Her Majesty, with the advice of Her Privy Council, from time to time, by order, to make regulations respecting the trial of the pyx and all matters incidental thereto, and in particular respecting the following matters, *viz*,

- (1) the time and place of the trial
- (2) the setting apart out of the coins issued by the Mint certain coins for the trial
- (3) the summoning of a jury of not less than six out of competent freemen of the mystery of goldsmiths of the city of London or other competent persons

- (4) the attendance at the trial of the jury so summoned, and of the proper officers of the Treasury, the Board of Trade, and the Mint, and the production of the coins so set apart, and of the standard trial plates and standard weights
- (5) the proceedings at and conduct of the trial, including the nomination of some person to preside thereat, and the swearing of the jury, and the mode of examining the coins.
- (6) the recording and the publication of the verdict, and the custody of the record thereof, and the proceedings (if any) to be taken in consequence of such verdict

Every such order shall come into operation on the date therein in that behalf mentioned, and shall have effect as if it were enacted in this Act, but may be revoked or altered by any subsequent order under this section

13. The Treasury may from time to time do all or any of the following things Regulations
by Treasury.

- (1) fix the number and duties of the officers of and persons employed in the Mint
- (2) make regulations and give directions (subject to the provisions of this Act and any proclamation made thereunder) respecting the general management of the Mint, and revoke and alter such regulations and directions

Master and Officers of Mint

14. The Chancellor of the Exchequer for the time being shall be the Master of master, worker, and warden of Her Majesty's Royal Mint in England, ^{Mint} and governor of the Mint in Scotland

Provided that nothing in this section shall render the Chancellor of the Exchequer incapable of being elected to or of sitting or voting in the House of Commons, * * * * *

All duties, powers, and authorities imposed on or vested in or to be transacted before the master of the Mint may be performed and exercised by or transacted before him or his sufficient deputy

15 The Treasury may from time to time appoint deputy masters and other officers and persons for the purpose of carrying on the business of the Mint in the United Kingdom or elsewhere, and assign them their <sup>Deputy
masters,
officers</sup> duties, and award them their salaries

The master of the Mint may from time to time promote, suspend, and remove any such deputy masters, officers, and persons

¹ The words "or vacate the seat of the person who at the passing of this Act holds the office of Chancellor of the Exchequer" were repealed (U K) by 61 & 62 Vict, c 22 (S L R)

Standard Trial Plates and Weights.

Custody, etc.,
of standard
trial plates.

16. The standard trial plates of gold and silver used for determining the justness of the gold and silver coins of the realm issued from the Mint, which now exist or may hereafter be made, and all books, documents, and things used in connexion therewith, or in relation thereto, shall be in the custody of the Board of Trade, and shall be kept in such places and in such manner as the Board of Trade may from time to time direct; and the performance of all duties in relation to such trial plates shall be part of the business of the Standard Weights and Measures Department of the Board of Trade.

The Board of Trade shall from time to time, when necessary, cause new standard trial plates to be made and duly verified, of such standard fineness as may be in conformity with the provisions of this Act

Standard
weights for
coins

17. * * * * *

The master of the Mint shall from time to time cause copies to be made of such standard weights, and once at least in every year the Board of Trade and the master of the Mint shall cause such copies to be compared and duly verified with the standard weights in the custody of the Board of Trade

* * * * *

Legal Proceedings

Summary
procedure.

18. Any summary proceeding under this Act may be taken, and any penalty under this Act may be recovered,—

in England, before two justices of the peace in manner directed by the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled “An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders,” and any Act amending the same,

in Scotland, in manner directed by The Summary Procedure Act, 1864,

in Ireland, so far as respects Dublin, in manner directed by the Acts regulating the powers of justices of the peace or the police of Dublin metropolis, and elsewhere in manner directed by The Petty Sessions (Ireland) Act, 1851, and any Act amending the same

¹ Words repealed by 41 & 42 Vict., c. 49, s. 86, have been omitted.

In any British possession, in the courts, and before such justices or magistrates, and in the manner in which the like proceedings and penalties may be taken and recovered by the law of such possession, or as near thereto as circumstances admit, or in such other courts, or before such other justices or magistrates, or in such other manner as any Act or Ordinance having the force of law in such possession may from time to time provide.

Miscellaneous

19. This Act, save as expressly provided by this Act, or by any proclamation made thereunder, shall not extend to any British possession

Extent of
Act.

20 The Acts mentioned in the first part of the second schedule to this Act are hereby repealed to the extent in the third column of such schedule mentioned, and those mentioned in the second part of the same schedule are hereby repealed entirely

Repeal of
Acts and
parts of Acts
in second
schedule

Provided that,—

(1) *this repeal shall not affect anything already done or suffered, or any right already acquired or accrued*¹

(2) all weights for weighing coin which have before the passing of this Act been marked at the Mint or by any proper officer shall be deemed to have been marked under this Act

(3) every branch of the Mint which at the passing of this Act issue coins in any British possession shall, until the date fixed by any proclamation made in pursuance of this Act with respect to such branch Mint, continue in all respects to have the same power of issuing coins and be in the same position as if this Act had not passed, and coins so issued shall be deemed for the purpose of this Act to have been issued from the Mint

(4) the said Acts (*unless relating to a branch Mint and unless in the said schedule expressly otherwise mentioned*)¹ are not repealed so far as they apply to any British possession to which this Act does not extend until a proclamation directing that this Act or any part thereof, with or without any modification contained in the proclamation, shall be in force in such British possession, comes into operation

title

city of
len as to
erty

¹ Repealed (U K) by 55 & 57 Vict., c. 54 (S L R.)

SCHEDULES

FIRST SCHEDULE ¹

Denomination of coin	STANDARD WEIGHT		LEAST CURRENT WEIGHT		Standard Fineness ²	REFMFDY ALLOWANCE		
	Imperial Weight	Metric Weight	Imperial Weight	Metric Weight		WEIGHT PER PIECE		
						Imperial	Metric	Millesimal Fineness.
	Grains	Grams	Grains	Grams.		Grains	Grams	
GOLD								
Five Pound	616 37239	39 94028	612 50000	39 68935	Eleven-twelfths fine gold, one-twelfth alloy, or millesimal fineness 9166 6	1 00000	0 06479	0 002
Two Pound	246 54895	15 97611	245 00000	15 87574		0 10000	0 02592	
Sovereign	123 27447	7 98805	122 50000	7 93787		0 20000	0 01296	
Half Sovereign	61 63723	3 99402	61 12500	3 96083		0 10000	0 00648	
SILVER								
Crown	436 36363	28 27590			Thirty seven-fortieths fine silver, three-fortieths alloy, or millesimal fineness 925	1 81818	0 11781	0 004
Half Crown	218 18181	14 13795				0 90909	0 05890	
Florin	174 54545	11 31036				0 72727	0 04712	
Shilling	87 27272	5 05518				0 36363	0 02356	
Sixpence	43 63636	2 82759				0 18181	0 01178	
Groat or Fourpence	29 09090	1 88506				0 12121	0 00785	
Threepence	21 81818	1 41379				0 09090	0 00589	
Twopence	14 54545	0 94253				0 06060	0 00392	
Penny	7 27272	0 47126				0 03030	0 00196	
COPPER								
Penny	145 83333	9 44984			Mixed metal, copper, tin, and zinc	2 91666	0 18899	None
Halfpenny	87 50000	5 66990				1 75000	0 11339	
Farthing	43 75000	2 83495				0 87500	0 05666	

The weight and fineness of the coins specified in this Schedule are according to what is provided by the Act fifty-six George the Third, chapter sixty-eight, that the gold coin of the United Kingdom of Great Britain and Ireland should hold such weight and fineness as were prescribed in the then existing Mint indenture (that is to say), that there should be nine hundred and thirty-four sovereigns and one ten shilling piece contained in twenty pounds weight troy of standard gold, of the fineness at the trial of the same of twenty-two carats fine gold and two carats of alloy in the pound weight troy, and further, as regards silver coin, that there should be sixty-six shillings in every pound troy of standard silver of the fineness of eleven ounces two pennyweights of fine silver and eighteen pennyweights of alloy in every pound weight troy

¹ For amendment of schedule, see 54 & 55 Vict., c. 72, s. 2, ante, p. 906.

SECOND SCHEDULE

FIRST PART

Acts partly repealed

Year and Chapter	Title	Extent of Repeal
2 Hen 6, c 17 [*] .	For regulating and ascertaining the fineness of silver work	So much as relates to the master of the Mint
29 & 30 Vict, c 82	An Act to amend the Acts relating to the standard weights and measures, and to the standard trial pieces of the coin of the realm	Section thirteen

^{*} c 14 in Rushhead

SECOND PART

Acts wholly repealed

Year and Chapter.	Title
18 & 19 Cha 2, c 5 [*]	An Act for encouraging of coinage
6 Anne, c 57†† .	<i>An Act for ascertaining the rates of foreign coins in Her Majesty's plantations in America</i>
†13 Geo 3, c 57 .	<i>An Act to explain and amend an Act made in the fourth year of His present Majesty, intituled "An Act to prevent paper bills of credit hereafter to be issued in any of His Majesty's colonies or plantations in America from being declared to be a legal tender in payments of money and to prevent the legal tender of such bills as are now subsisting from being prolonged beyond the periods limited for calling in and sinking the same"</i>
14 Geo 3, c 70	An Act for applying a certain sum of money for calling in and recoinning the deficient gold coin of this realm; and for regulating the manner of receiving the same at the Bank of England, and of taking there an account of the deficiency of the said coin and making satisfaction for the same, and for authorizing all persons to cut and deliver all gold coin that shall not be allowed to be current by His Majesty's proclamation
14 Geo 3, c 92 .	An Act for regulating and ascertaining the weight to be made use of in weighing the gold and silver coin of this kingdom

^{*} 18 Cha 2 in Rushhead.

† c 33 in Rushhead

† Repealed as to the whole of Her Majesty's dominions upon the passing of this Act; and as to the whole of the United Kingdom (U. K.) by 50 & 51 Vict, c 54 (S. 1 R.)

SECOND SCHEDULE—*contd*SECOND PART—*contd**Acts wholly repealed—contd.*

Year and Chapter	Title
15 Geo 3, c 30	An Act for allowing the officer appointed to mark or stamp the weights to be made use of in weighing the gold and silver coin of this kingdom, in pursuance of an Act made in the last session of Parliament, to take certain fees in the execution of his office
39 Geo 3, c 94	An Act to ascertain the salary of the master and worker of His Majesty's Mint
52 Geo 3, c 138	An Act for the further prevention of the counterfeiting of silver tokens issued by the Governor and Company of the Bank of England called dollars, and of silver pieces issued and circulated by the said Governor and Company called tokens and for the further prevention of frauds practised by the imitation of the notes or bills of the said Governor and Company
52 Geo 3, c 157	An Act to prevent the issuing and circulating of pieces of gold and silver or other metal, usually called tokens, except such as are issued by the Banks of England and Ireland respectively
54 Geo 3, c 4	An Act to continue until six weeks after the commencement of the next session of Parliament an Act passed in the last session of Parliament, intituled "An Act to continue and amend an Act of the present session, to prevent the issuing and circulating of pieces of gold and silver or other metal, usually called tokens, except such as are issued by the Banks of England and Ireland respectively"
56 Geo 3, c 68	An Act to provide for a new silver coinage, and to regulate the currency of the gold and silver coin of this realm
57 Geo 3, c 46	An Act to prevent the issuing and circulating of pieces of copper or other metal usually called tokens
57 Geo 3, c 67	An Act to regulate certain offices, and abolish others, in His Majesty's Mints in England and Scotland respectively
57 Geo 3, c 113	An Act to prevent the further circulation of dollars and tokens issued by the Governor and Company of the Bank of England for the convenience of the public
6 Geo 4 c 79	An Act to provide for the assimilation of the currency and monies of account throughout the United Kingdom of Great Britain and Ireland
6 Geo 4, c 98	An Act to prevent the further circulation of tokens issued by the Governor and Company of the Bank of Ireland for the convenience of the public, and for defraying the expense of exchanging such tokens
1 & 2 Will 4, c 10	An Act to reduce the salary of the master and worker of His Majesty's Mint

SECOND SCHEDULE—*concl'd*SECOND PART—*concl'd**Acts wholly repealed—concl'd*

Year and Chapter	Title
7 Will 4 & 1 Vict, c 9	An Act to amend several Acts relating to the Royal Mint
12 & 13 Vict, c 41	An Act to extend an Act of the fifty-sixth year of King George the Third for providing for a new silver coinage and for regulating the currency of the gold and silver coin of this realm
22 & 23 Vict, c 30	An Act to extend the enactments relating to the copper coin to coin of mixed metal
26 & 27 Vict, c 74	An Act to enable Her Majesty to declare gold coins to be issued from Her Majesty's Branch Mint at Sydney, New South Wales, a legal tender for payments, and for other purposes relating thereto
29 & 30 Vict, c 65	An Act to enable Her Majesty to declare gold coins to be issued from Her Majesty's Colonial Branch Mints a legal tender for payments, and for other purposes relating thereto

THE NATURALIZATION ACT, 1870

(33 & 34 Vict, c 14)

An Act to amend the Law relating to the legal Condition of Aliens and British Subjects

[12th May, 1870]

[*Preamble and enacting words Rep (U K) 56 & 57 Vict, c 54 (S L R)*]

1 This Act may be cited for all purposes as "The Naturalization Short title Act, 1870 "

Status of Aliens in the United Kingdom

2 Real and personal property of every description may be taken, acquired, held, and disposed of by an alien in the same manner in all respects as by a natural-born British subject, and a title to real and personal property of every description may be derived through, from, or in succession to an alien, in the same manner in all respects as through, from, or in succession to a natural-born British subject

Provided,—

(1) that this section shall not confer any right on an alien to hold real property situate out of the United Kingdom, and shall

not qualify an alien for any office or for any municipal, Parliamentary, or other franchise

(2) that this section shall not entitle an alien to any right or privilege as a British subject, except such rights and privileges in respect of property as are hereby expressly given to him

(3) that this section shall not affect any estate or interest, in real or personal property, to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before the passing of this Act, or in pursuance of any devolution by law on the death of any person dying before the passing of this Act

Power of
naturalized
aliens to
divest them-
selves of their
status in cer-
tain cases

3. Where Her Majesty has entered into a convention with any foreign state to the effect that the subjects or citizens of that state who have been naturalized as British subjects may divest themselves of their status as such subjects, it shall be lawful for Her Majesty by Order in Council to declare that such convention has been entered into by Her Majesty,

and from and after the date of such Order in Council, any person being originally a subject or citizen of the state referred to in such order, who has been naturalized as a British subject, may, within such a limit of time as may be provided in the convention, make a declaration of alienage, and from and after the date of his so making such declaration such person shall be regarded as an alien, and as a subject of the state to which he originally belonged as aforesaid

A declaration of alienage may be made as follows, that is to say—

If the declarant be in the United Kingdom, in the presence of any justice of the peace, if elsewhere in Her Majesty's dominions, in the presence of any judge of any court of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law in the place in which the declarant is to administer an oath for any judicial or other legal purpose

If out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty

How British-
born subject
may cease to
be such

4. Any person who by reason of his having been born within the dominions of Her Majesty is a natural-born subject, but who also at the time of his birth became under the law of any foreign state a subject of such state and is still such subject may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration of alienage such person shall cease to be a British subject,

Any person who is born out of Her Majesty's dominions of a father being a British subject may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration shall cease to be a British subject

5. * * * *¹ an alien * * * *¹ shall Trial of alien
be triable in the same manner as if he were a natural-born subject

Expatriation

6. Any British subject who has at any time before, or may at any time after, the passing of this Act, when in any foreign state and not under any disability, voluntarily become naturalized in such state, shall from and after the time of his so having become naturalized in such foreign state be deemed to have ceased to be a British subject and be regarded as an alien

Capacity of British subject to renounce allegiance to Her Majesty

Provided,—

- (1) that where any British subject has before the passing of this Act voluntarily become naturalized in a foreign state and yet is desirous of remaining a British subject, he may, at any time within two years after the passing of this Act, make a declaration that he is desirous of remaining a British subject, and upon such declaration, hereinafter referred to as a declaration of British nationality, being made and upon his taking the oath of allegiance, the declarant shall be deemed to be and to have been continually a British subject, with this qualification, that he shall not, when within the limits of the foreign state in which he has been naturalized, be deemed to be a British subject, unless he has ceased to be a subject of that state in pursuance of the laws thereof or in pursuance of a treaty to that effect
- (2) a declaration of British nationality may be made, and the oath of allegiance be taken as follows, that is to say,—if the declarant be in the United Kingdom, in the presence of a justice of the peace, if elsewhere in Her Majesty's dominions, in the presence of any judge of any court of civil or criminal jurisdiction or any justice of the peace or of any other officer for the time being authorized by law in the place in which the declarant is to administer an oath for any judicial or other legal purpose, if out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty

¹ Words repealed (U K) by 56 & 57 Vict., c 54 (S L R), have been omitted

Naturalization and Resumption of British Nationality

Certificate of
naturaliza-
tion

7 An alien who, within such limited time before making the application hereinafter mentioned as may be allowed by one of Her Majesty's Principal Secretaries of State, either by general order or on any special occasion, has resided in the United Kingdom for a term of not less than five years or has been in the service of the Crown for a term of not less than five years, and intends, when naturalized, either to reside in the United Kingdom or to serve under the Crown, may apply to one of Her Majesty's Principal Secretaries of State for a certificate of naturalization

The applicant shall adduce in support of his application such evidence of his residence or service, and intention to reside or serve, as such Secretary of State may require. The said Secretary of State, if satisfied with the evidence adduced, shall take the case of the applicant into consideration and may, with or without assigning any reason, give or withhold a certificate as he thinks most conducive to the public good, and no appeal shall lie from his decision, but such certificate shall not take effect until the applicant has taken the oath of allegiance.

An alien to whom a certificate of naturalization is granted shall in the United Kingdom be entitled to all political and other rights, powers and privileges, and be subject to all obligations to which a natural-born British subject is entitled or subject in the United Kingdom, with this qualification, that he shall not, when within the limits of the foreign state of which he was a subject previously to obtaining his certificate of naturalization, be deemed to be a British subject, unless he has ceased to be a subject of that state in pursuance of the laws thereof, or in pursuance of a treaty to that effect.

The said Secretary of State may in manner aforesaid grant a special certificate of naturalization to any person with respect to whose nationality as a British subject a doubt exists, and he may specify in such certificate that the grant thereof is made for the purpose of quieting doubts as to the right of such person to be a British subject, and the grant of such special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a British subject.

An alien who has been naturalized previously to the passing of this Act may apply to the Secretary of State for a certificate of naturalization under this Act, and it shall be lawful for the said Secretary of State to grant such certificate to such naturalized alien upon the same terms and subject to the same conditions in and upon which such certificate might have been granted if such alien had not been previously naturalized in the United Kingdom.

Certificate of
re-admission

8 A natural-born British subject who has become an alien in pursuance of this Act, and is in this Act referred to as a statutory alien,

may, on performing the same conditions and adducing the same evidence ^{to British nationality.} as is required in the case of an alien applying for a certificate of nationality, apply to one of Her Majesty's Principal Secretaries of State for a certificate hereinafter referred to as a certificate of re-admission to British nationality, re-admitting him to the status of a British subject. The said Secretary of State shall have the same discretion as to the giving or withholding of the certificate as in the case of a certificate of naturalization, and an oath of allegiance shall in like manner be required previously to the issuing of the certificate.

A statutory alien to whom a certificate of re-admission to British nationality has been granted shall, from the date of the certificate of re-admission, but not in respect of any previous transaction, resume his position as a British subject, with this qualification, that within the limits of the foreign state of which he became a subject, he shall not be deemed to be a British subject, unless he has ceased to be a subject of that foreign state according to the laws thereof, or in pursuance of a treaty to that effect.

The jurisdiction by this Act conferred on the Secretary of State in the United Kingdom in respect of the grant of a certificate of re-admission to British nationality, in the case of any statutory alien being in any British possession, may be exercised by the governor of such possession and residence in such possession shall in the case of such person be deemed equivalent to residence in the United Kingdom.

9. The oath in this Act referred to as the oath of allegiance shall be ^{Form of oath of allegiance.} in the form following, that is to say,

"I, _____, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law. So help me God."

National Status of married Women and infant Children

10. The following enactments shall be made with respect to the ^{National status of married women and infant children} national status of women and children —

- (1) A married woman shall be deemed to be a subject of the state of which her husband is for the time being a subject.
- (2) A widow being a natural-born British subject, who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may as such at any time during widowhood obtain a certificate of re-admission to British nationality in manner provided by this Act.
- (3) Where the father being a British subject, or the mother being a British subject and a widow, becomes an alien in pursuance of this Act, every child of such father or mother who

during infancy has become resident in the country where the father or mother is naturalized and has, according to the laws of such country, become naturalized therein, shall be deemed to be a subject of the state of which the father or mother has become a subject and not a British subject

- (4) Where the father, or the mother being a widow, has obtained a certificate of re-admission to British nationality, every child of such father or mother who during infancy has become resident in the British dominions with such father or mother, shall be deemed to have resumed the position of a British subject to all intents
- (5) Where the father, or the mother being a widow, has obtained a certificate of naturalization in the United Kingdom, every child of such father or mother who during infancy has become resident with such father or mother in any part of the United Kingdom, [or with such father while in the service of the Crown out of the United Kingdom,]¹ shall be deemed to be a naturalized British subject.

Supplemental Provisions

¹ *nationalis*
² *registra* **11.** One of Her Majesty's Principal Secretaries of State may by regulation provide for the following matters.—

- (1) The form and registration of declarations of British nationality.
- (2) The form and registration of certificates of naturalization in the United Kingdom
- (3) The form and registration of certificates of re-admission to British nationality.
- (4) The form and registration of declarations of alienage
- (5) The registration by officers in the diplomatic or consular service of Her Majesty of the births and deaths of British subjects who may be born or die out of Her Majesty's dominions * * * *
- (6) The transmission to the United Kingdom for the purpose of registration or safe keeping, or of being produced as evidence of any declarations or certificates made in pursuance of this Act out of the United Kingdom, or of any copies of such declarations or certificates, also of copies of entries contained in any register kept out of the United Kingdom in pursuance of or for the purpose of carrying into effect the provisions of this Act.

¹ Words in brackets were inserted by 58 & 59 Vict., c. 39, s. 1

² The words "and of the marriages of persons married at any of Her Majesty's embassies or legations" were repealed by 55 & 56 Vict., c. 23, s. 26

- (7) With the consent of the treasury the imposition or application of fees in respect of any registration authorized to be made by this Act, and in respect of the making any declaration or the grant of any certificate authorized to be made or granted by this Act

The said Secretary of State, by a further regulation, may repeal, alter, or add to any regulation previously made by him in pursuance of this section

Any regulation made by the said Secretary of State in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if it had been enacted in this Act, but shall not, so far as respects the imposition of fees, be in force in any British possession, and shall not, so far as respects any other matter, be in force in any British possession in which any Act or ordinance to the contrary of or inconsistent with any such direction may for the time being be in force

12 The following regulations shall be made with respect to evidence under this Act —

Regulations
as to
evidence.

- (1) Any declaration authorized to be made under this Act may be proved in any legal proceeding by the production of the original declaration, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such declaration, and the production of such declaration or copy shall be evidence of the person therein named as declarant having made the same at the date in the said declaration mentioned
- (2) A certificate of naturalization may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate
- (3) A certificate of re-admission to British nationality may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate
- (4) Entries in any register authorized to be made in pursuance of this Act shall be proved by such copies and certified in such

manner as may be directed by one of Her Majesty's Principal Secretaries of State, and the copies of such entries shall be evidence of any matters by this Act or by any regulation of the said Secretary of State authorized to be inserted in the register

- (5) The Documentary Evidence Act, 1868, shall apply to any regulation made by a Secretary of State in pursuance of ^{31 & 32 Vict. c. 37} or for the purpose of carrying into effect any of the provisions of this Act

Miscellaneous

13 Nothing in this Act contained shall affect the grant of letters of denization by Her Majesty

14 Nothing in this Act contained shall qualify an alien to be the owner of a British ship

15 Where any British subject has in pursuance of this Act become an alien, he shall not thereby be discharged from any liability in respect of any acts done before the date of his so becoming an alien

16 All laws, statutes and ordinances which may be duly made by the legislature of any British possession for imparting to any person the privileges, or any of the privileges, of naturalization to be enjoyed by such person within the limits of such possession, shall within such limits have the authority of law, but shall be subject to be confirmed or disallowed by Her Majesty in the same manner, and subject to the same rules in and subject to which Her Majesty has power to confirm or disallow any other laws, statutes, or ordinance in that possession

17 In this Act, if not inconsistent with the context or subject-matter thereof—

“Disability” shall mean the status of being an infant, lunatic, idiot, or married woman

“British possession” shall mean any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the United Kingdom, and all territories and places under one legislature are deemed to be one British possession for the purposes of this Act

“The governor of any British possession” shall include any person exercising the chief authority in such possession

“Officer in the diplomatic service of Her Majesty” shall mean any ambassador, minister, or chargé d'affaires, or secretary of legation, or any person appointed by such ambassador, minister, chargé d'affaires, or secretary of legation to execute any duties imposed by this Act on an officer in the diplomatic service of Her Majesty

“Officer in the consular service of Her Majesty” shall mean and include consul-general, consul, vice-consul, and consular

Saving of letters of denization
Saving as to British ships.

Saving of allegiance prior to expatriation

Power of colonies to legislate with respect to naturalization

Definition of terms

agent and any person for the time being discharging the duties of consul-general, consul, vice consul, and consular agent

18 and Sch [Rep (U K) 16 & 17 Vict, c 39 (S L R). Omitted as being spent]

THE EXTRADITION ACT, 1870

(33 & 34 Vict, c. 52)

An Act for amending the Law relating to the extradition of Criminals.

[9th August, 1870]

[Preamble and enacting word Rep (U K) 56 & 57 Vict., c. 64 (S L R)]

arrangement, that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that foreign state for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded

- (3) A fugitive criminal who has been accused of some offence within English jurisdiction not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the United Kingdom, shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise
- (4) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender

Provisions of
arrangement
for surrender.

4. An Order in Council for applying this Act in the case of any foreign state shall not be made unless the arrangement—

- (1) provides for the determination of it by either party to it after the expiration of a notice not exceeding one year, and
- (2) is in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act

Publication
and effect of
order

5. When an order applying this Act in the case of any foreign state has been published in the London Gazette, this Act, after the date specified in the order, or if no date is specified, after the date of the publication, shall, so long as the order remains in force, but subject to the limitations, restrictions, conditions, exceptions, and qualifications, if any, contained in the order, apply in the case of such foreign state. An Order in Council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this Act, and that this Act applies in the case of the foreign state mentioned in the order, and the validity of such order shall not be questioned in any legal proceedings whatever

Liability of
criminal to
surrender

6. Where this Act applies in the case of any foreign state, every fugitive criminal of that state who is in or suspected of being in any part of Her Majesty's dominions, or that part which is specified in the order applying this Act, (as the case may be,) shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's dominions over that crime

Order of
Secretary of
State for issue

7. A requisition for the surrender of a fugitive criminal of any foreign state, who is in or suspected of being in the United Kingdom,

shall be made to Secretary of State by some person recognised by the Secretary of State as a diplomatic representative of that foreign state. A Secretary of State may, by order under his hand and seal, signify to a police magistrate that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal.

of warrant in United Kingdom if crime is not of a political character

If the Secretary of State is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody.

8 A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in the United Kingdom, may be issued—

Issue of warrant by police magistrate, justice, etc

- (1) by a police-magistrate on the receipt of the said order of the Secretary of State, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in England, and
- (2) by a police magistrate or any justice of the peace in any part of the United Kingdom, on such information or complaint and such evidence or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction.

Any person issuing a warrant under this section without an order from a Secretary of State, shall forthwith send a report of the fact of such issue together with the evidence and information or complaint, or certified copies thereof, to a Secretary of State, who may if he think fit order the warrant to be cancelled, and the person who has been apprehended on the warrant to be discharged.

A fugitive criminal, when apprehended on a warrant issued without the order of a Secretary of State, shall be brought before some person having power to issue a warrant under this section, who shall by warrant order him to be brought and the prisoner shall accordingly be brought before a police magistrate.

A fugitive criminal apprehended on a warrant issued without the order of a Secretary of State shall be discharged by the police magistrate, unless the police magistrate, within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from a Secretary of State an order signifying that a requisition has been made for the surrender of such criminal.

9. When a fugitive criminal is brought before the police magistrate, the police magistrate shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner

Hearing of case and evidence of political

character of
crime

were brought before him charged with an indictable offence committed in England

The police magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime

Committal or
discharge of
prisoner

10 In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged

In the case of a fugitive criminal alleged to have been convicted of an extradition crime if such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, prove that the prisoner was convicted of such crime, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged

If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a Secretary of State for his surrender, and shall forthwith send to a Secretary of State a certificate of the committal, and such report upon the case as he may think fit

Surrender of
fugitive to
foreign state
by warrant of
Secretary of
State

11 If the police magistrate commits a fugitive criminal to prison, he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of habeas corpus

Upon the expiration of the said fifteen days, or, if a writ of habeas corpus is issued, after the decision of the court upon the return to the writ, as the case may be or after such further period as may be allowed in either case by a Secretary of State, it shall be lawful for a Secretary of State, by warrant under his hand and seal, to order the fugitive criminal, if not delivered on the decision of the court, to be surrendered to such person as may in his opinion be duly authorized to receive the fugitive criminal by the foreign state from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly

It shall be lawful for any person to whom such warrant is directed and for the person so authorized as aforesaid to receive, hold in custody, and convey within the jurisdiction of such foreign state the criminal mentioned in the warrant, and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of Her Majesty's dominions to which he escapes may be retaken upon an escape

12. If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom within two months after such committal, or, if a writ of habeas corpus is issued, after the decision of the court upon the return to the writ, it shall be lawful for any judge of one of her Majesty's Superior Courts at Westminster, upon application made to him by or on behalf of the criminal and upon proof that reasonable notice of the intention to make such application has been given to a Secretary of State, to order the criminal to be discharged out of custody unless sufficient cause is shown to the contrary

Discharge of persons apprehended if not conveyed out of United Kingdom within two months

13. The warrant of the police magistrate issued in pursuance of this Act may be executed in any part of the United Kingdom in the same manner as if the same had been originally issued or subsequently indorsed by a justice of the peace having jurisdiction in the place where the same is executed

Execution of warrant of police magistrate

14. Depositions or statements on oath taken in a foreign state and copies of such original depositions or statements and foreign certificates of or judicial documents stating the fact of conviction, may, if duly authenticated, be received in evidence in proceedings under this Act

Depositions to be evidence

15. Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of or judicial documents stating the fact of a conviction, shall be deemed duly authenticated for the purposes of this Act if authenticated in manner provided for the time being by law or authenticated as follows —

Authentication of depositions and warrants

- (1) If the warrant purports to be signed by a judge, magistrate, or officer of the foreign state where the same was issued,
- (2) If the depositions or statements or the copies thereof purport to be certified under the hand of a judge, magistrate, or officer of the foreign state where the same were taken to be the original depositions or statements, or to be true copies thereof, as the case may require, and
- (3) If the certificate of or judicial document stating the fact of conviction purports to be certified by a judge, magistrate, or officer of the foreign state where the conviction took place, and

if in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be) are authenticated by the oath of some witness or by being sealed with the official seal of the minister of justice, or some other minister of state. And all courts of justice, justices, and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof

Crimes committed at Sea

16. Where the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas

Jurisdiction as to crimes

committed at sea. which comes into any port of the United Kingdom, the following provisions shall have effect —

- 1 This Act shall be construed as if any stipendiary magistrate in England or Ireland, and any sheriff or sheriff substitute in Scotland, were substituted for the police magistrate throughout this Act, except the part relating to the execution of the warrant of the police magistrate
- 2 The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime
- 3 If the fugitive criminal is apprehended on a warrant issued without the order of a Secretary of State, he shall be brought before the stipendiary magistrate, sheriff, or sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port

Fugitive Criminals in British Possessions

Proceedings
as to fugitive
criminals in
British pos-
sessions.

17. This Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every British possession in the same manner as if throughout this Act the British possession were substituted for the United Kingdom or England, as the case may require, but with the following modifications, namely,—

- (1) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a British possession may be made to the governor of that British possession by any person recognised by that governor as a consul-general, consul, or vice-consul, or (if the fugitive criminal has escaped from a colony or dependency of the foreign state on behalf of which the requisition is made) as the governor of such colony or dependency
- (2) No warrant of a Secretary of State shall be required, and all powers vested in or acts authorized or required to be done under this Act by the police magistrate and the Secretary of State or either of them, in relation to the surrender of a fugitive criminal, may be done by the governor of the British possession alone
- (3) Any prison in the British possession may be substituted for a prison in Middlesex
- (4) A judge of any court exercising in the British possession the like powers as the Court of Queen's Bench exercises in England may exercise the power of discharging a criminal when not conveyed within two months out of such British possession

18. If by any law or ordinance, made before or after the passing of this Act by the legislature of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such British possession, Her Majesty may, by the Order in Council applying this Act in the case of any foreign state, or by any subsequent order, either

suspend the operation within any such British possession of this Act, or of any part thereof so far as it relates to such foreign state, and so long as such law or ordinance continues in force there, and no longer;

or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of this Act

General Provisions.

19. Where, in pursuance of any arrangement with a foreign state, any person accused or convicted of any crime which, if committed in England, would be one of the crimes described in the first schedule to this Act, is surrendered by that foreign state, such person shall not, until he has been restored or had an opportunity of returning to such foreign state, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded

Criminal sur-
rendered by
foreign state
not triable
for previous
crime

20 The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and in the case of a British possession may be so used, *mutatis mutandis*, and when used shall be deemed to be valid and sufficient in law

As to use of
forms in
second sched-
ule

21 Her Majesty may, by Order in Council, revoke or alter, subject to the restrictions of this Act, any Order in Council made in pursuance of this Act, and all the provisions of this Act with respect to the original order shall (so far as applicable) apply, *mutatis mutandis*, to any such new order

Revocation,
etc., of Order
in Council

22 This Act (except so far as relates to the execution of warrants in the Channel Islands) shall extend to the Channel Islands and Isle of Man in the same manner as if they were part of the United Kingdom, and the royal Courts of the Channel Islands are hereby respectively authorized and required to register this Act

Application
of Act in
Channel
Islands and
Isle of Man

23. Nothing in this Act shall affect the lawful powers of Her Majesty or of the Governor General of India in Council to make treaties for the extradition of criminals with Indian native states, or with other Asiatic states conterminous with British India, or to carry

Saving for
Indian
treaties

into execution the provisions of any such treaties made either before or after the passing of this Act

Power of
foreign state
to obtain
evidence
in United
Kingdom

24 The testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal in a foreign state in like manner as it may be obtained in relation to any civil matter under the Foreign Tribunals Evidence Act, 1856,

10 & 20 V
c 113

and all the provisions of that Act shall be construed as if the term civil matter included a criminal matter, and the term cause included a proceeding against a criminal. Provided that nothing in this section shall apply in the case of any criminal matter of a political character

Foreign state
includes de
pendencies

25 For the purposes of this Act, every colony, dependency, and constituent part of a foreign state and every vessel of that state, shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of and to be part of such foreign state

Definition of
terms
" British
possession "

26 In this Act, unless the context otherwise requires,—

The term "British possession" means any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man, and all colonies, plantations, islands, territories, and settlements under one legislature, as hereinafter defined, are deemed to be one British possession

" Legis-
lature "

The term "legislature" means any person or persons who can exercise legislative authority in a British possession, and where there are local legislatures as well as a central legislature, means the central legislature only

" Governor "

The term "governor" means any person or persons administering the government of a British possession, and includes the governor of any part of India

" Extradition
crime "

The term "extradition crime" means a crime which, if committed in England or within English jurisdiction, would be one of the crimes described in the first schedule to this Act

" Convic-
tion "

The terms "conviction" and "convicted" do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term "accused person" includes a person so convicted for contumacy

" Fugitive
criminal "

The term "fugitive criminal" means any person accused or convicted of an extradition crime committed within the jurisdiction of any foreign state who is in or is suspected of being in some part of Her Majesty's dominions, and the term "fugitive criminal of a foreign state" means a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that state

" Fugitive
criminal of a
foreign
state "

" Secretary
of State "

The term "Secretary of State" means one of Her Majesty's Principal Secretaries of State [Rep (U K) 56 & 57 Vict, c 54 (S L R)]

The term "police magistrate" means a chief magistrate of the "Police metropolitan police courts, or one of the other magistrates of the magistrate." metropolitan police court in Bow Street

The term "justice of the peace" includes in Scotland any sheriff, "Justice of sheriff's substitute, or magistrate the peace"

The term "warrant" in the case of any foreign state, includes any "Warrant" judicial document authorizing the arrest of a person accused or convicted of crime

Repeal of Acts

27 The Acts specified in the third schedule to this Act are hereby repealed as to the whole of Her Majesty's dominions, and this Act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the Acts so repealed) shall apply (as regards crimes committed either before or after the passing of this Act,) in the case of the foreign states with which those treaties are made, in the same manner as if an Order in Council referring to such treaties had been made in pursuance of this Act, and as if such order had directed that every law and ordinance which is in force in any British possession with respect to such treaties should have effect as part of this Act *

Repeal of
Acts
in third
schedule

* * * * *

SCHEDULES

FIRST SCHEDULE ²

List of Crimes

The following list of crimes is to be construed according to the law existing in England, or in a British possession (as the case may be), at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act —

Murder, and attempt and conspiracy to murder

Manslaughter

Counterfeiting and altering money and uttering counterfeit or altered money

Forgery, counterfeiting, and altering and uttering what is forged or counterfeited or altered

¹ Part omitted was repealed by 46 & 47 Vict., c. 39 (S. L. R.)

² By s. 8 of 36 & 37 Vict., c. 60, this Act is to be construed as if there were included in this schedule the list of crimes contained in the schedule to that Act. By s. 28 of 36 & 37 Vict., c. 88, certain slave trade offences are also to be deemed to be inserted. By 6 Edw. 7, c. 15, the Act is to be construed as if bribery were included in the list

Embezzlement and larceny.

Obtaining money or goods by false pretences

Crimes by bankrupts against bankruptcy law

Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any company made criminal by any Act for the time being in force

Rape

Abduction

Child stealing

Burglary and housebreaking

Arson

Robbery with violence

Threats by letter or otherwise with intent to extort.

Piracy by law of nations

Sinking or destroying a vessel at sea, or attempting or conspiring to do so

Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master

SECOND SCHEDULE

Form of Order of Secretary of State to the Police Magistrate

To the chief magistrate of the metropolitan police courts *or* other magistrate of the metropolitan police court in Bow Street [or the stipendiary magistrate at]

WHEREAS, in pursuance of an arrangement with , referred to in an Order of Her Majesty in Council dated the day of , requisition has been made to me, , one of Her Majesty's Principal Secretaries of State, by , the diplomatic representative of , for the surrender of , late of , accused [*or* convicted] of the commission of the crime of within the jurisdiction of

Now I hereby, by this my order under my hand and seal, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension of such fugitive, provided that the conditions of the Extradition Act, 1870, relating to the issue of such warrant, are in your judgment complied with

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day of 18

Form of Warrant of Apprehension by Order of Secretary of State.

Metropolitan police district, [or county or borough of] to wit } To all and each of the constables of the metropolitan police force [or of the county or borough of]

WHEREAS the Right Honourable , one of Her Majesty's Principal Secretaries of State, by order under his hand and seal, hath signified to me that requisition hath been duly made to him for the surrender of , late of , accused [or convicted] of the commission of the crime of

within the jurisdiction of { This is therefore to command you in Her Majesty's name forthwith to apprehend the said

pursuant to the Extradition Act, 1870, wherever he may be found in the United Kingdom, or Isle of Man, and bring him before me or some other [magistrate sitting in this court]* to show cause why he should not be surrendered in pursuance of the said Extradition Act, for which this shall be your warrant

Given under my hand and seal at [Bow Street, one of the police courts of the metropolis*] this day of 18 . .

J P

* NOTE —Alter as required

Form of Warrant of Apprehension without Order of Secretary of State

Metropolitan police district, [or county or borough of] to wit } To all and each of the constables of the metropolitan police force [or of the county or borough of]

WHEREAS it has been shown to the undersigned, one of Her Majesty's justices of the peace in and for the metropolitan police district [or the said county or borough of] that , late of , is accused [or convicted] of the commission of the crime of within the jurisdiction of

This is therefore to command you in Her Majesty's name forthwith to apprehend the said , and to bring him before me or some other magistrate sitting at this court [or one of Her Majesty's justices of the peace in and for the county [or borough] of

] to be further dealt with according to law for which this shall be your warrant

Given under my hand and seal at Bow Street, one of the police courts of the metropolis [or in the county or borough aforesaid] this day of 18 . .

J P

WHEREAS , late of , accused [or alleged to be convicted] of the commission of the crime of within the jurisdiction of has been apprehended and brought before the undersigned, one of Her Majesty's justices of the peace in and for the said county [or borough] of , And whereas by the Extradition Act, 1870, he is required to be brought before the chief magistrate of the metropolitan police court, or one of the police magistrates of the metropolis sitting at Bow Street within the metropolitan police district [or the stipendiary magistrate for] This is therefore to command you, the said constable, in Her Majesty's name forthwith to take and convey the said to the metropolitan police district [or the said

], and there carry him before the said chief magistrate or one of the police magistrates of the metropolis sitting at Bow Street within the said district [or before a stipendiary magistrate sitting in the said

], to show cause why he should not be surrendered in pursuance of the Extradition Act, 1870, and otherwise to be dealt with in accordance with law, for which this shall be your warrant

Given under my hand and seal at in the county [or
borough] aforesaid this day of 18
J P

Form of Warrant of Committal

To , one of the constables of the metropolitan force, or
Metropolitan police dis } of the police force of the county or borough of
trict, [or the county or }
borough of] to wit) , and to the keeper of the .

Be it remembered, that on this day of in the year of our Lord , late of , is brought before me , the chief magistrate of the metropolitan police courts [or one of the police magistrates of the metropolis], sitting at the police court in Bow Street, within the metropolitan police district [or a stipendiary magistrate for], to show cause why he should not be surrendered in pursuance of the Extradition Act, 1870, on the ground of his being accused [or convicted] of the commission of the crime of within the jurisdiction of , and forasmuch as no sufficient cause has been shown to me why he should not be surrendered in pursuance of the said Act

This is therefore to command you, the said constable, in Her Majesty's name forthwith to convey and deliver the body of the said into the custody of the said keeper of the at , and you, the said keeper, to receive the said into your custody, and him there safely to keep until he is thence delivered pursuant to the

provisions of the said Extradition Act, for which this shall be your warrant

Given under my hand and seal at Bow Street, one of the police
courts of the metropolis, [or at the said] this
day of 18

J P

Form of Warrant of Secretary of State for surrender of Fugitive

To the keeper of and to

WHEREAS, , late of , accused [or convicted]
of the commission of the crime of within the jurisdiction
of , was delivered into the custody of you ,
the keeper of , by warrant dated , pursuant
to the Extradition Act, 1870

Now I do hereby, in pursuance of the said Act, order you, the said
keeper, to deliver the body of the said into the custody of
the said , and I command you, the said , to
receive the said into your custody, and to convey him within
the jurisdiction of the said , and there place him in the
custody of any person or persons appointed by the said to
receive him, for which this shall be your warrant

Given under the hand and seal of the undersigned, one of Her
Majesty's Principal Secretaries of State, this day of

THIRD SCHEDULE

Year and Chapter	Title
16 & 7 Vict, c 75	<i>An Act for giving effect to a convention between Her Majesty and the King of the French for the apprehension of certain offenders</i>
6 & 7 Vict, c 76	An Act for giving effect to a treaty between Her Majesty and the United States of America for the apprehension of certain offenders
8 & 9 Vict, c 120	An Act for facilitating execution of the treaties with France and the United States of America for the apprehension of certain offenders
125 & 26 Vict, c 70	<i>An Act for giving effect to a convention between Her Majesty and the King of Denmark for the mutual surrender of criminals</i>
29 & 30 Vict, c 121	An Act for the amendment of the law relating to treaties of extradition

¹ Repealed (U K), 56 & 57 Vict, c 54 (S L R)

THE EAST INDIA CONTRACTS ACT, 1870

(33 & 34 Vict, c 59.)

An Act to render valid certain Contracts informally executed in India
[9th August, 1870]

[Preamble reciting 22 & 23 Vict, c 41, 32 & 33 Vict, c 29, and
enacting words *Rep (U K) 56 & 57 Vict., c 54 (S. L R)*]

1. [*Rep 46 & 47 Vict, c 39 (S L R.)*.]

Power to
authorities in
India to vary
forms of exe-
cution

2 It shall be lawful for the Governor General, by resolution in Council, from time to time to vary the form of execution prescribed by the said first recited Act for the deeds, contracts, and other instruments to which it relates, and to empower such authorities as to him may seem expedient to vary it within the respective limits of their local jurisdiction, and deeds, contracts, and other instruments executed according to forms so altered shall have in all respects the like validity as if they had been executed according to the provisions of the Government of India Act, 1889

22 & 23 Vic
c 41

THE FOREIGN ENLISTMENT ACT, 1870

(33 & 34 Vict., c. 90.)

An Act to regulate the conduct of Her Majesty's subjects during the existence of hostilities between foreign states with which Her Majesty is at peace.

[9th August, 1870]

Whereas it is expedient to make provision for the regulation of the conduct of Her Majesty's subjects during the existence of hostilities between foreign states with which Her Majesty is at peace. [The foregoing and the remaining portions of the preamble were repealed (U. K) by 56 & 57 Vict, c 54 (S L R)]

Short title of
Act

1. This Act may be cited for all purposes as "The Foreign Enlistment Act, 1870"

Preliminary

Application of
Act

2. This Act shall extend to all the dominions of Her Majesty, including adjacent territorial waters

Commence-
ment of Act.

3. This Act * * * shall be proclaimed in every British possession by the governor thereof, as soon as may be after he receives notice of this Act, and shall come into operation in that British possession on the day of such proclamation, and the time at which this Act comes into operation in any place is, as respects such place, in this Act referred to as the commencement of this Act

¹ The words "shall come into operation in the United Kingdom immediately on the passing thereof, and" were repealed (U K) by 56 & 57 Vict, c. 54 (S L R).

Illegal Enlistment

4. If any person, without the license of Her Majesty, being a British subject, within or without Her Majesty's dominions, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign state at war with any foreign state at peace with Her Majesty, and in this Act referred to as a friendly state, or whether a British subject or not within Her Majesty's dominions, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign state as aforesaid,—

Penalty on enlistment in service of foreign state

he shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted, and imprisonment, if awarded, may be either with or without hard labour

5. If any person, without the license of Her Majesty, being a British subject, quits or goes on board any ship with a view of quitting Her Majesty's dominions with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state, or, whether a British subject or not, within Her Majesty's dominions, induces any other person to quit or to go on board any ship with a view of quitting Her Majesty's dominions with the like intent,—

Penalty on leaving Her Majesty's dominions with intent to serve a foreign state

he shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted, and imprisonment, if awarded, may be either with or without hard labour

6. If any person induces any other person to quit Her Majesty's dominions or to embark on any ship within Her Majesty's dominions under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state,—

Penalty on embarking persons under false representations as to service

he shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted, and imprisonment, if awarded, may be either with or without hard labour

Majesty, accepted or agreed to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state.

- (2) any person being a British subject, who, without the license of Her Majesty, is about to quit Her Majesty's dominions with intent to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state
- (3) any person who has been induced to embark under a misrepresentation or false representation of the service in which such person is to be engaged with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state

Such master or owner shall be guilty of an offence against this Act, and the following consequences shall ensue, that is to say

- (1) the offender shall be punishable by fine and imprisonment or either of such punishments at the discretion of the court before which the offender is convicted and imprisonment, if awarded, may be either with or without hard labour and
- (2) such ship shall be detained until the trial and conviction or acquittal of the master or owner, and until all penalties inflicted on the master or owner have been paid, or the master or owner has given security for the payment of such penalties to the satisfaction of two justices of the peace or other magistrate or magistrates having the authority of two justices of the peace and
- (3) all illegally enlisted persons shall immediately on the discovery of the offence be taken on shore, and shall not be allowed to return to the ship

Illegal Shipbuilding and illegal Expeditions

8 If any person within Her Majesty's dominions, without the license of Her Majesty, does any of the following acts, that is to say,—

- (1) builds or agrees to build or causes to be built any ship with intent or knowledge or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state or
- (2) issues or delivers any commission for any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state or

(3) equips any ship with intent or knowledge or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state or

(4) despatches, or causes or allows to be despatched, any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state

Such person shall be deemed to have committed an offence against this Act, and the following consequences shall ensue —

(1) The offender shall be punishable by fine and imprisonment or either of such punishments, at the discretion of the court before which the offender is convicted, and imprisonment, if awarded, may be either with or without hard labour

(2) The ship in respect of which any such offence is committed, and her equipment, shall be forfeited to Her Majesty

Provided that a person building, causing to be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, shall not be liable to any of the penalties imposed by this section in respect of such building or equipping if he satisfies the conditions following, (that is to say,)

(1) if forthwith upon a proclamation of neutrality being issued by Her Majesty he gives notice to the Secretary of State that he is so building, causing to be built, or equipping such ship, and furnishes such particulars of the contract and of any matters relating to, or done, or to be done under the contract as may be required by the Secretary of State.

(2) if he gives such security, and takes and permits to be taken such other measures, if any, as the Secretary of State may prescribe for ensuring that such ship shall not be despatched, delivered, or removed without the license of Her Majesty until the termination of such war as aforesaid

9. Where any ship is built by order of or on behalf of any foreign state when at war with a friendly state, or is delivered to or to the order of such foreign state, or any person who to the knowledge of the person building is an agent of such foreign state, or is paid for by such foreign state or such agent, and is employed in the military or naval service of such foreign state, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on the builder of such ship of proving that he did not know that the ship was intended to be so employed in the military or naval service of such foreign state

Presumption
as to evidence
in case of
illegal ship

Penalty on
aiding the
warlike
equipment of
foreign ships.

10. If any person within the dominions of Her Majesty, and without the license of Her Majesty,—

by adding to the number of the guns, or by changing those on board for other guns, or by the addition of any equipment for war, increases or augments or procures to be increased or augmented, or is knowingly concerned in increasing or augmenting the warlike force of any ship which at the time of her being within the dominions of Her Majesty was a ship in the military or naval service of any foreign state at war with any friendly state,—

such person shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted, and imprisonment, if awarded, may be either with or without hard labour

Penalty on
fitting out
naval or
military
expeditions
without
license

11 If any person within the limits of Her Majesty's dominions, and without the license of Her Majesty,—

prepares or fits out any naval or military expedition to proceed against the dominions of any friendly state, the following consequences shall ensue —

(1) Every person engaged in such preparation or fitting out or assisting therein, or employed in any capacity in such expedition, shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted, and imprisonment, if awarded, may be either with or without hard labour

(2) All ships and their equipments and all arms and munitions of war, used in or forming part of such expedition, shall be forfeited to Her Majesty

Punishment
of access
forces.

12 Any person who aids, abets, counsels, or procures the commission of any offence against this Act shall be liable to be tried and punished as a principal offender

Limitation of
term of im-
prisonment.

13 The term of imprisonment to be awarded in respect of any offence against this Act shall not exceed two years

Illegal Prize

Illegal prize
brought into
British ports
retained.

14. If, during the continuance of any war in which Her Majesty may be neutral, any ship, goods, or merchandise captured as prize of war within the territorial jurisdiction of Her Majesty, in violation of the neutrality of this realm, or captured by any ship which may have been built, equipped, commissioned, or despatched, or the force of which may have been augmented, contrary to the provisions of this Act, are brought within the limits of Her Majesty's dominions by the captor, or any agent of the captor, or by any person having come into possession thereof with knowledge that the same was prize of war so captured as

aforesaid, it shall be lawful for the original owner of such prize, or his agent, or for any person authorized in that behalf by the government of the foreign state to which such owner belongs, to make application to the Court of Admiralty for seizure and detention of such prize, and the court shall, on due proof of the facts, order such prize to be restored

Every such order shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise of the ordinary jurisdiction of such court, and in the meantime and until a final order has been made on such application the court shall have power to make all such provisional and other orders as to the care or custody of such captured ship, goods, or merchandise, and (if the same be of perishable nature, or incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale, as may be made by such court in the exercise of its ordinary jurisdiction

General Provision

15 For the purposes of this Act, a license by Her Majesty shall be under the Sign Manual of Her Majesty, or be signified by Order in Council or by proclamation of Her Majesty. License by Her Majesty how granted

Legal Procedure

16 Any offence against this Act shall, for all purposes of and incidental to the trial and punishment of any person guilty of any such offence, be deemed to have been committed either in the place in which the offence was wholly or partly committed, or in any place within Her Majesty's dominions in which the person who committed such offence may be Jurisdiction in respect of offences by persons against Act.

17 Any offence against this Act may be described in any indictment or other document relating to such offence, in cases where the mode of trial requires such a description, as having been committed at the place where it was wholly or partly committed, or it may be averred generally to have been committed within Her Majesty's dominions, and the venue or local description in the margin may be that of the county, city, or place in which the trial is held Venue in respect of offences by persons 24 & 25 Vict., c. 97.

18. The following authorities, that is to say, in the United Kingdom any judge of a superior court, in any other place within the jurisdiction of any British court of justice, such court, or, if there are more courts than one, the court having the highest criminal jurisdiction in that place, may by warrant or instrument in the nature of a warrant in this section included in the term "warrant," direct that any offender charged with an offence against this Act shall be removed to some other place in Her Majesty's dominions for trial in cases where it appears to the authority granting the warrant that the removal of such offender would be conducive to the interests of justice, and any prisoner so Power to remove offenders for trial

removed shall be triable at the place to which he is removed, in the same manner as if his offence had been committed at such place

Any warrant for the purposes of this section may be addressed to the master of any ship or to any other person or persons, and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to any place or places named in such warrant and to deliver him when arrived at such place or places into the custody of any authority designated by such warrant

Every prisoner shall, during the time of his removal under any such warrant as aforesaid, be deemed to be in the legal custody of the person or persons empowered to remove him

Jurisdiction
in respect of
forfeiture of
ships for
offences
against Act

19 All proceedings for the condemnation and forfeiture of a ship, or ship and equipment, or arms and munitions of war in pursuance of this Act shall require the sanction of the Secretary of State or such chief executive authority as is in this Act mentioned, and shall be had in the Court of Admiralty, and not in any other court, and the Court of Admiralty shall, in addition to any power given to the court by this Act, have in respect of any ship or other matter brought before it in pursuance of this Act all powers, which it has in the case of a ship or matter brought before it in the exercise of its ordinary jurisdiction

Regulations
as to proceed-
ings against
the offender
and against
the ship

20 Where any offence against this Act has been committed by any person by reason whereof a ship, or ship and equipment, or arms and munitions of war, has or have become liable to forfeiture, proceedings may be instituted contemporaneously or not, as may be thought fit, against the offender in any court having jurisdiction of the offence, and against the ship, or ship and equipment, or arms and munitions of war, for the forfeiture in the Court of Admiralty, but it shall not be necessary to take proceedings against the offender because proceedings are instituted for the forfeiture or to take proceedings for the forfeiture because proceedings are taken against the offender

Officers
authorised to
seize offend-
ing ships

21 The following officers, that is to say,

- (1) any officer of customs in the United Kingdom, subject nevertheless to any special or general instructions from the commissioners of customs or any officer of the Board of Trade, subject nevertheless to any special or general instructions from the Board of Trade,
- (2) any officer of customs or public officer in any British possession, subject nevertheless to any special or general instructions from the governor of such possession,
- (3) any commissioned officer on full pay in the military service of the Crown, subject nevertheless to any special or general instructions from his commanding officer,
- (4) any commissioned officer on full pay in the naval service of the Crown, subject nevertheless to any special or general instructions from the Admiralty or his superior officer,

may seize or detain any ship liable to be seized or detained in pursuance of this Act, and such officers are in this Act referred to as the "local authority," but nothing in this Act contained shall derogate from the power of the Court of Admiralty to direct any ship to be seized or detained by any officer by whom such court may have power under its ordinary jurisdiction to direct a ship to be seized or detained

22 Any officer authorized to seize or detain any ship in respect of any offence against this Act, may for the purpose of enforcing such seizure or detention, call to his aid any constable or officers of police or any officers of Her Majesty's army or navy or marines, or any excise officers or officers of customs, or any harbour-master or dock-master, or any officers having authority by law to make seizures of ships, and may put on board any ship so seized or detained any one or more of such officers to take charge of the same, and to enforce the provisions of this Act, and any officer seizing or detaining any ship under this Act may use force, if necessary, for the purpose of enforcing seizure or detention, and if any person is killed or maimed by reason of his resisting such officer in the execution of his duties, or any person acting under his orders, such officer so seizing or detaining the ship, or other person shall be freely and fully indemnified as well against the Queen's Majesty, her heirs and successors as against all persons so killed, maimed or hurt

Powers of officers authorized to seize ships

23 If the Secretary of State or the chief executive authority is satisfied that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act such Secretary of State or chief executive authority shall have power to issue a warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant the local authority shall have power to seize and search such ship, and to detain the same until it has been either condemned or released by process of law or in manner herein-after mentioned

Special power of Secretary of State or chief executive authority to detain ship

The owner of the ship so detained, or his agent, may apply to the Court of Admiralty for its release, and the court shall as soon as possible put the matter of such seizure and detention in course of trial between the applicant and the Crown

If the applicant establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, the ship shall be released and restored

If the applicant fail to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, then the ship shall be detained till released by order of the Secretary of State or chief executive authority

The court may in cases where no proceedings are pending for its condemnation release any ship detained under this section on the owner giving security to the satisfaction of the court that the ship shall not be employed contrary to this Act, notwithstanding that the applicant may have failed to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or intended to be despatched contrary to this Act. The Secretary of State or the chief executive authority may likewise release any ship detained under this section on the owner giving security to the satisfaction of such Secretary of State or chief executive authority that the ship shall not be employed contrary to this Act, or may release the ship without such security if the Secretary of State or chief executive authority think fit so to release the same.

If the court be of opinion that there was not reasonable and probable cause for the detention, and if no such cause appear in the course of the proceedings, the court shall have power to declare that the owner is to be indemnified by the payment of costs and damages in respect of the detention, the amount thereof to be assessed by the court, and any amount so assessed shall be payable by ¹ * * * the Treasury out of any moneys legally applicable for that purpose. The Court of Admiralty shall also have power to make a like order for the indemnity of the owner, on the application of such owner to the court, in a summary way, in cases where the ship is released by the order of the Secretary of State or the chief executive authority, before any application is made by the owner or his agent to the court for such release.

Nothing in this section contained shall affect any proceedings instituted or to be instituted for the condemnation of any ship detained under this section where such ship is liable to forfeiture, subject to this provision, that if such ship is restored in pursuance of this section all proceedings for such condemnation shall be stayed, and where the court declares that the owner is to be indemnified by the payment of costs and damages for the detainer, all costs, charges, and expenses incurred by such owner in or about any proceedings for the condemnation of such ship shall be added to the costs and damages payable to him in respect of the detention of the ship.

Nothing in this section contained shall apply to any foreign non-commissioned ship despatched from any part of Her Majesty's dominions after having come within them under stress of weather or in the course of a peaceful voyage, and upon which ship no fitting out or equipping of a warlike character has taken place in this country.

24 Where it is represented to any local authority, as defined by this Act, and such local authority believes the representation, that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned, or

¹ The words "the commissioners of" were repealed (U K) by 56 & 57 Vict., c. 54 (S L R)

equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, it shall be the duty of such local authority to detain such ship, and forthwith to communicate the fact of such detention to the Secretary of State or chief executive authority

Upon the receipt of such communication the Secretary of State or chief executive authority may order the ship to be released if he thinks there is no cause for detaining her, but if satisfied that there is reasonable and probable cause for believing that such ship was built, commissioned, or equipped or intended to be despatched in contravention of this Act, he shall issue his warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant being issued further proceedings shall be had as in cases where the seizure or detention has taken place on a warrant issued by the Secretary of State without any communication from the local authority

Where the Secretary of State or chief executive authority orders the ship to be released on the receipt of a communication from the local authority without issuing his warrant, the owner of the ship shall be indemnified by the payment of costs and damages in respect of the detention upon application to the Court of Admiralty in a summary way in like manner as he is entitled to be indemnified where the Secretary of State having issued his warrant under this Act releases the ship before any application is made by the owner or his agent to the court for such release

25 The Secretary of State or the chief executive authority may, by warrant, empower any person to enter any dockyard or other place within Her Majesty's dominions and inquire as to the destination of any ship which may appear to him to be intended to be employed in the naval or military service of any foreign state at war with a friendly state, and to search such ship

Power of
Secretary of
State or ex-
ecutive author-
ity to grant
search war-
rant

26. Any powers or jurisdiction by this Act given to the Secretary of State may be exercised by him throughout the dominions of Her Majesty, and such powers and jurisdiction may also be exercised by any of the following officers, in this Act referred to as the chief executive authority, within their respective jurisdictions, that is to say,

Exercise of
powers of
Secretary of
State or chief
executive
authority

- (1) in Ireland by the Lord Lieutenant ¹ * * * * or
the chief secretary * * * 1
- (2) in Jersey by the Lieutenant Governor
- (3) in Guernsey, Alderney, and Sark, and the dependent islands,
by the Lieutenant Governor
- (4) in the Isle of Man by the Lieutenant Governor
- (5) in any British possession by the Governor

¹ The words " or other the chief governor or governors of Ireland for the time being " and " to the Lord Lieutenant " were repealed (U K) by 56 & 57 Vict, c 54 (S L R)

A copy of any warrant issued by a Secretary of State or by any officer authorized in pursuance of this Act to issue such warrant in Ireland, the Channel Islands, or the Isle of Man shall be laid before Parliament

Appeal from
Court of Ad-
miralty

27. An appeal may be had from any decision of a Court of Admiralty under this Act to the same tribunal and in the same manner to and in which an appeal may be had in cases within the ordinary jurisdiction of the court as a Court of Admiralty

Indemnity to
officers

28 Subject to the provisions of this Act providing for the award of damages in certain cases in respect of the seizure or detention of a ship by the Court of Admiralty, no damages shall be payable, and no officer or local authority shall be responsible, either civilly or criminally, in respect of the seizure or detention of any ship in pursuance of this Act

Indemnity to
Secretary of
State or chief
executive
authority

29 The Secretary of State shall not, nor shall the chief executive authority, be responsible in any action or other legal proceedings whatsoever for any warrant issued by him in pursuance of this Act, or be examinable as a witness, except at his own request, in any court of justice in respect of the circumstances which led to the issue of the warrant

Interpretation Clause

Interpreta-
tion.

30 In this Act, if not inconsistent with the context, the following terms have the meanings herein-after respectively assigned to them, that is to say,

"Foreign
state "

"Foreign state" includes any foreign prince, colony, province, or part of any province or people, or any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people

"Military
service "

"Military service" shall include military telegraphy and any other employment whatever in or in connexion with any military operation

"Naval
service "

"Naval service" shall, as respects a person, include service as a marine, employment as a pilot in piloting or directing the course of a ship of war or other ship when such ship of war or other ship is being used in any military or naval operation, and any employment whatever on board a ship of war, transport, store ship, privateer, or ship under letters of marque, and as respects a ship, include any user of a ship as a transport, store ship, privateer, or ship under letters of marque

"United
Kingdom "

"United Kingdom" includes the Isle of Man, the Channel Islands and other adjacent islands

"British
possession "

"British possession" means any territory, colony, or place being part of Her Majesty's dominions, and not part of the United Kingdom as defined by this Act.

“The Secretary of State” shall mean any one of Her Majesty’s
Principal Secretaries of State: “The Secretary of State.”

“The Governor” shall as respects India mean the Governor General or the governor of any presidency, and where a British possession consists of several constituent colonies, mean the Governor General of the whole possession or the governor of any of the constituent colonies, and as respects any other British possession it shall mean the officer for the time being administering the government of such possession, also any person acting for or in the capacity of a governor shall be included under the term “governor” “Governor”

“Court of Admiralty” shall mean the High Court of Admiralty of England or Ireland, the Court of Session of Scotland, or any Vice-Admiralty Court within Her Majesty’s dominions “Court of Admiralty.”

“Ship” shall include any description of boat, vessel, floating battery, or floating craft, also any description of boat vessel, or other craft or battery made to move either on the surface of or under water, or sometimes on the surface of “Ship.”

entering into military service in Asia. 59 Geo. 3, c. 60, s. 12. service of any prince, state, or potentate in Asia, with such leave or license as is for the time being required by law in the case of subjects of Her Majesty entering into the military service of princes, states, or potentates in Asia

THE NATURALIZATION OATH ACT, 1870

(33 & 34 Vict., c. 102)

An Act to amend the Law relating to the taking of Oaths of Allegiance on Naturalization.

[10th August, 1870]

[*Preamble reciting 33 & 34 Vict., c. 14, and enacting words Rep (U K) 56 & 57 Vict., c. 54 (S L R)*]

Regulations
as to oaths of
allegiance

1 The power of making regulations vested in one of Her Majesty's Principal Secretaries of State by the Naturalization Act, 1870, shall extend to prescribing as follows — 33 & 34
Vict., c. 1

- (1) The persons by whom the oaths of allegiance may be administered under that Act
- (2) Whether or not such oaths are to be subscribed as well as taken, and the form in which such taking and subscription are to be attested
- (3) The registration of such oaths
- (4) The persons by whom certified copies of such oaths may be given
- (5) The transmission to the United Kingdom for the purpose of registration or safe keeping, or of being produced as evidence, of any oaths taken in pursuance of the said Act out of the United Kingdom, or of any copies of such oaths, also of copies of entries of such oaths contained in any register kept out of the United Kingdom in pursuance of this Act
- (6) The proof in any legal proceeding of such oaths
- (7) With the consent of the Treasury the imposition and application of fees in respect of the administration or registration of any such oath

The two last paragraphs in the eleventh section of the Naturalization Act, 1870, shall apply to regulations made under this Act

Penalty on
making
false
declaration

2 Any person wilfully and corruptly making or subscribing any declaration under the Naturalization Act, 1870, knowing the same to be untrue in any material particular, shall be guilty of a misdemeanor and be liable to imprisonment with or without hard labour for any term not exceeding twelve months

Construction
and short
title of Act

3 This Act shall be termed the Naturalization Oath Act, 1870, and shall be construed as one with the Naturalization Act, 1870, and may be cited together with that Act as the Naturalization Act, 1870.

THE INDIA STOCK DIVIDENDS ACT, 1871¹

(34 & 35 Vict., c. 29.)

An Act to facilitate the payment of Dividends on India Stocks

[29th June, 1871]

[*Preamble, reciting 33 & 34 Vict , c 71, s 20 (as to payment of dividends on India Stock by Banks of England and Ireland) and enacting words Rep (U K), 56 & 57 Vict , c 54 (S L R)*]

²1. THE power given to the said Banks, as above recited, to make arrangements for payment of dividends on stock by sending warrants through the post shall as regards the payment of dividends on India five per cent stock and India capital four per cent stock, and on any stock which may be in future created under the powers in that behalf vested in the Secretary of State for India in Council by Acts of Parliament now in force, be exercised with the sanction of the Secretary of State for India in Council instead of the Treasury , and, where a holder of any such stock desires to have his divided warrants sent him by post, he shall make his request as in the said Act provided, but in a form approved by the Bank and the Secretary of State for India in Council , and the provisions of sections 20 and 21 of the said Act, shall, with this variation, apply to payment of dividends on the aforesaid India stocks, and to warrants for the same sent by post

Sending dividend warrants by post.

THE INDIAN COUNCILS ACT, 1871

(34 & 35 Vict., c. 34.)

An Act to extend in certain respects the power of Local Legislatures in India as regards European British subjects

[29th June 1871]

[*Preamble reciting 24 & 25 Vict , c 67, s 42, and enacting words Rep (U K) 56 & 57 Vict , c 54 (S L R)*]

1. No law or regulation heretofore made or hereafter to be made by any Power to Governor or Lieutenant-Governor in Council in India in manner prescribed by Local Legislatures to

¹ This Act may be cited with eighteen others, as the East India Loans Acts, 1852 to 1885—see the Short Titles Act, 1896 (59 & 60 Vict., c 14), *post*

² This section is repealed as to the U K. so far as it applies 33 & 34 Vict. c 71 s 20, *lastpara* , by 46 & 47 Vict , c '39 (S L R) As regards the extension of these provisions, see 43 Vict, c. 10, s. 16, *post*

confer jurisdiction over European British subjects to magistrates in certain cases
Committal of defendant (being an European British subject) to the High Court (Indian Act No XXV of 1861, s 226)

Power to Local Legislatures to amend and repeal certain laws

the aforesaid Act shall be invalid only by reason that it confers on magistrates, being justices of the peace, the same jurisdiction over European British subjects as such Governor or Lieutenant-Governor in Council, by regulations made as aforesaid, could have lawfully conferred or could lawfully confer on magistrates in the exercise of authority over natives in the like cases

2 WHEN evidence has been given in any proceeding under this Act before a magistrate, being a justice of the peace, which appears to be sufficient for the conviction of the accused person, being an European British subject, of an offence for which, if a native, he would under existing law be triable exclusively before the Court of Session, or which, in the opinion of the Magistrate, is one which ought to be tried by the High Court, the accused person, if such European British subject, shall be sent for trial by the Magistrate before the High Court

3. AND whereas by an Act passed by the Governor General of India in Council, Indian Act No XXII of 1870, it is provided that certain Acts heretofore passed by the Governors of Madras and Bombay respectively in Council, and by the Lieutenant-Governor of Bengal in Council, shall, so far as regards the liability of European British subjects to be convicted and punished thereunder, be and be deemed to be as valid as if they had been passed by the Governor General of India in Council at a meeting for the purpose of making laws and regulations Be it further enacted, that the said Governors and Lieutenant-Governor in Council respectively shall have power to repeal and amend any of the said Acts so declared valid, by Acts to be passed under the provisions of the Indian Councils Act

THE INDIAN BISHOPS ACT, 1871

(34 & 35 Vict. c. 62.)

An Act to enable Her Majesty to make regulations relative to the leave of absence of Indian Bishops on furlough and medical certificates

[31st July, 1871]

[Preamble reciting 5 & 6 Vict., c. 119, and enacting words Rep (U K) 56 & 57 Vict., c. 54 (S L R)]

Rules for leave of absence for bishops

1¹ It shall be lawful for Her Majesty to make such rules as to the leave of absence of Indian bishops on furlough or medical certificate as may seem to be expedient

Provided that no further expenditure of the revenues of India be incurred thereby than is already authorised under existing Acts of Parliament

* * * * *

¹ The remainder of the Act has been repealed by 46 & 47 Vict., c. 39 (S L R.) and is omitted The word "that" at the beginning of the section was repealed by 56 & 57 Vict., c. 54 (S L R.)

THE NATURALIZATION ACT, 1872

(35 & 36 Vict, c. 39)

An Act for amending the law in certain cases in relation to Naturalization.

[25th July, 1872]

[*Preamble reciting Supplementary Convention which is set out in the Schedule and enacting words Rep (U K) 56 & 57 Vict , c 54 (S L R)*]

1. THIS Act may be cited for all purposes as the Naturalization Act, 1872, Short title and this Act and " The Naturalization Act, 1870, " may be cited together as " The Naturalization Acts, 1870 and 1872. "

2. ANY renunciation of naturalization or of nationality made in manner provided by the said supplementary convention by the persons and under the circumstances in the said convention in that behalf mentioned shall be valid to all intents, and shall be deemed to be authorized by the said Naturalization Act, 1870 This section shall be deemed to take effect from the date at which the said supplementary convention took effect

3 NOTHING contained in " The Naturalization Act, 1870 " shall deprive any married woman of any estate or interest in real or personal property to which she may have become entitled previously to the passing of that Act, or affect such state or interest to her prejudice.

SCHEDULE

Convention between Her Majesty and the United States or ~~Amica~~ ^{supplementary} to the Convention of May 13th, 1870, respecting ~~naturalization~~

Signed at Washington, 23rd February 1871.

Queen of the United Kingdom of Great Britain and Ireland, Sir Edward Thornton, Knight Commander of the Most Honourable Order of the Bath, and Her Envoy Extraordinary and Minister Plenipotentiary to the United States of America, and the President of the United States of America, Hamilton Fish, Secretary of State, who have agreed as follows —

ARTICLE I

Any person being originally a citizen of the United States who had, previously to May 13, 1870, been naturalized as a British subject, may at any time before August 10, 1872, and any British subject who, at the date first aforesaid, had been naturalized as a citizen within the United States, may at any time before May 12, 1872, publicly declare his renunciation of such naturalization by subscribing an instrument in writing, substantially in the form hereunto appended, and designated as annex A.

Such renunciation by an original citizen of the United States, of British nationality shall, within the territories and jurisdiction of the United States, be made in duplicate, in the presence of any court authorized by law for the time being to admit aliens to naturalization, or before the clerk or prothonotary of any such court if the declarant be beyond the territories of the United States, it shall be made in duplicate, before any diplomatic or consular officer of the United States. One of such duplicates shall remain on record in the custody of the court or officer in whose presence it was made, the other shall be, without delay, transmitted to the department of State.

Such renunciation, if declared by an original British subject, of his acquired nationality as a citizen of the United States, shall if the declarant be in the United Kingdom of Great Britain and Ireland, be made in duplicate, in the presence of a justice of the peace, if elsewhere in Her Britannic Majesty's dominions, in triplicate, in the presence of any judge of civil or criminal jurisdiction, or any justice of the peace, or of any other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose, if out of Her Majesty's dominions, in triplicate in the presence of any officer in the diplomatic or consular service of Her Majesty.

ARTICLE II

The contracting parties hereby engage to communicate each to the other, from time to time, lists of the persons who, within their respective dominions and territories, or before their diplomatic and consular officers, have declared their renunciation of naturalization with the dates and places of making such declarations, and such information as to the abode of the declarants, and the times and places of their naturalization, as they may have furnished.

ARTICLE III

The present convention shall be ratified by Her Britannic Majesty, and by the President of the United States by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at Washington as soon as may be convenient.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at Washington, the twenty-third day of February, in the year of our Lord one thousand eight hundred and seventy-one

(L. S.) EDWD THORNTON

(L. S.) HAMILTON FISH

(ANNEX A.)

I, A¹ B of (*insert abode*), being originally citizen of the United States of America (*or a British subject*), and having become naturalized within the dominions of Her Britannic Majesty as a British subject (*or as a citizen within the United States of America*), do hereby renounce my naturalization as a British subject (*or citizen of the United States*) and declare that it is my desire to resume my nationality as a citizen of the United States (*or British subject*)

(Signed) A B

Made and subscribed before me in (*insert country or other sub-division, and state, province, colony, legation, or consulate*), this day of 187

(Signed) E F,

Justice of the Peace (or other title)

(L S) EDWD THORNTON

(L S) HAMILTON FISH

LADY MAYO'S ANNUITY

(35 & 36 Vict., c. 56.)

*An Act to settle an annuity on the Honourable Blanche Julia, Countess of Mayo, in consideration of the eminent services of the late Earl of Mayo as Viceroy and Governor General of India*¹

[6th August, 1872]

THE EAST INDIA STOCK DIVIDEND REDEMPTION ACT, 1873.²

(36 & 37 Vict., c. 17.)

An Act to provide for the Redemption or Commutation of the Dividend on the Capital Stock of the East India Company, and for the transfer of the Security Fund of the India Company to the Secretary of State in Council of India, and for the Dissolution of the East India Company

[15th May, 1873]

[Preamble and enacting words Rep (U K) 56 & 57 Vict, c 54 (S L R).]

1 THIS Act may be cited as "*The East India Stock Dividend Redemption Act, 1873* "

¹ It has been thought sufficient only to print the title of this Statute

² This Act may be cited, with ~~any~~ others, as "*the East India Loans Acts 1873* "—see the Short Titles Act, 1835 (52 & 53 Vict, c 14), *post*

Interpreta-
tion of
terms

2. In this Act—

“East India stock” means the capital stock of the East India Company :
The expression “proprietors of East India stock” means and includes all
persons, bodies politic or corporate, and the executors or administra-
tors of all persons in whose names any portion or share of East India
stock may be standing in the books kept for or on behalf of the East
India Company by * * *¹ the Bank of England

3 to 9 [*Rep as to U K 46 & 47 Vict, c 39 (S L R)* Omitted as being
spent]

Payment of
dividends on
stock, etc.,
accepted in
lieu of East
India stock.

10 * * *² The dividends to accrue on such stocks,
funds, or securities as may be accepted in lieu of East India stock, under
this provision, shall continue to be paid and dealt with in like manner as the
dividends on such East India stock would have been paid and dealt with in
case this Act had not been passed until the Court of Chancery shall make
further order therein, and the said paymaster-general and accountant-
general respectively shall be fully indemnified against all actions, suits,
or proceedings for or in respect of any act, matter, or thing done by them
respectively in pursuance of this Act

11 to 15 [*Rep as to U K 46 & 47 Vict, c 39 (S L R)* Omitted as
being spent]

Power to
Secretary of
State in
Council to
grant letter
of attorney
for sale, etc,
of stock on
account of
security
fund.

16 THE Secretary of State in Council by letter of attorney executed by
two members of the Council, and countersigned by the Secretary of State or
one of his under-secretaries or his assistant under-secretary, may authorize all
or any of the cashiers of the Bank of England to sell and transfer all or any
part of the stock or stocks standing, or that may thereafter stand, in the
books of the said bank to the accounts intituled “the stock account of the
Secretary of State in Council of India in respect of the security fund of the
India Company,” and to purchase and accept stock on the said accounts, and
to receive the dividends due and to become due on the several stocks standing,
or that may thereafter stand, on the said accounts, and by any writing signed
by two members of the Council and countersigned as aforesaid, may direct the
application of the moneys to be received in respect of such sales and
dividends, but no stock shall be purchased or sold and transferred by any of the
said cashiers, under the authority of such general letter of attorney, except
upon an order directed to the chief cashier and chief accountant of the Bank of
England from time to time, and duly signed and countersigned as aforesaid

Account how
to be drawn
upon

17 THE account to be intituled “the account of the Secretary of State in
Council of India in respect of the security fund of the India Company,” to be
opened at the Bank of England pursuant to this Act, shall be drawn upon

¹ The words “the governor and company of” were repealed (U K) by 56 & 57 Vict., c 54 (S L R)

² The words omitted have been repealed as to the U K. by 46 & 47 Vict., c 39 (S L R), and are omitted as being obsolete and inapplicable to India.

by such person or persons, and in such manner as may from time to time be directed by the Secretary of State in Council, and the said account shall be deemed a public account

18 No part of the stocks to be transferred to the accounts to be intituled " the stock account of the Secretary of State in Council of India in respect of the security fund of the India Company," or of the dividends to accrue due on such stocks, or of the moneys to be paid to the account to be intituled " the account of the Secretary of State in Council of India in respect of the security fund of the India Company." or of the cash to arise from the temporary investment of moneys standing to such last-mentioned account, shall be applied *to any purposes other than the redemption or commutation of the dividend on East India stock or the accumulation of a fund for the redemption of such dividend, unless and until the total amount payable for the use of proprietors of East India stock who shall not signify their assents to commute their respective shares of the dividend on the said stock shall have been actually paid to such account as shall be raised at the Bank of England in pursuance of the directions in that behalf hereinbefore contained*

No part of transferred stocks to be applied otherwise than to redemption of dividends until certain claims satisfied

19 to 23 [*Rep as to U K 46 & 47 Vict, c 39 (S L R) Omitted as being spent*]

24 ALL principal sums of money payable to any proprietors of East India stock, the dividend whereon is redeemed in pursuance of this Act, which shall not be claimed for ten years after the thirtieth day of April one thousand eight hundred and seventy-four, or for such period after the thirtieth day of April one thousand eight hundred and seventy-four, as with the period immediately preceding the said thirtieth day of April, during which the dividends on such stock shall not have been claimed, shall make up ten years, shall be transferred to the account of the Secretary of State in Council at the Bank of England

Transfer of unclaimed redemption money to Secretary of State in Council

25 IMMEDIATELY after every such transfer as last aforesaid the name or names in which the stock stood on the thirtieth day of April one thousand eight hundred and seventy-four, the residence and description of the parties, the amount transferred, and the date of transfer, shall be entered on a list to be kept for the purpose by the Secretary of State in Council, which list shall be open for inspection at such place and at such times as the Secretary of State in Council shall appoint

List of names in which the stock stood in respect whereof redemption money unclaimed

26 [*Rep as to U K 46 & 47 Vict, c 39 (S L R) Omitted as being spent*]

27 ALL other dividends on any portions or shares of East India stock remaining unclaimed on the said thirtieth day of May one thousand eight hundred and seventy-four, shall be paid by the East India Company to an account to be opened at the Bank of England and to be intituled " East India stock dividend account , " and such dividends, when claimed within the period of ten years from the date of the same having accrued due, shall be paid by

Other unclaimed dividends to be transferred to East India stock dividend account

Dividends on that account unclaimed for ten years to be transferred to Secretary of State in Council.

Redemption money and dividends transferred to Secretary of State in Council to be applied as part of revenues of India.

Repayment to person showing title

the Bank of England out of such account. Any dividend on that account, if and when unclaimed for the period of ten years from the date of such dividend having accrued due, and all dividends subsequently accrued due in respect of the same portion or share of stock and unclaimed, shall be transferred to the account of the Secretary of State in Council at the Bank of England

28 ALL principal sums of money and dividends transferred or paid to the account of the Secretary of State in Council in pursuance of the directions hereinbefore contained, shall be held by the Secretary of State in Council and applied as part of the revenues of India, subject to the claims of the parties entitled thereto

29 THE Secretary of State in Council shall pay any principal sums of money and dividends so transferred or paid to the account of the Secretary of State in Council to any person showing his right thereto to the satisfaction of the Secretary of State in Council

But in case the Secretary of State in Council is not satisfied of the right of any person claiming to be entitled to any such principal moneys or dividends, the claimant may apply by petition in respect thereof in a summary way to the Court of Chancery

The petitions shall be served upon the solicitor to the India Office, and the court shall make such order thereon (for payment of the principal moneys and dividends to which the petition relates, or otherwise), and in respect of the costs of the application, as to the court seems just

Three months notice before payment.

30 PRINCIPAL sums exceeding the sum of twenty pounds shall not be paid, nor shall dividends exceeding twenty pounds in the whole be paid to a claimant under the preceding section of this Act until three months after application made for the same, nor until public notice has been given thereof as hereinafter provided.

Advertisements before payment.

31 THE Secretary of State in Council shall require the applicant to give such public notice as the Secretary of State in Council shall think fit by advertisements in one or more newspapers circulating in London and elsewhere

Every such notice shall state the name or names, residence, and description of the person or persons in whose name or names the stock stood on the thirtieth day of April one thousand eight hundred and seventy-four, the amount of the stock, the name of the claimant, and the time at which payment of the principal money due in respect thereof, and of the dividends, if any, will be made if no other claimant sooner appears and makes out his claim

Where any such payment is ordered by the Court of Chancery the notice shall also state the purport of the order

32 AT any time before payment to a claimant any person may apply to the Court of Chancery by motion or petition to rescind or vary any order made for such payment

33 WHERE any principal moneys or dividends having been paid as afore-
said to claimant by the Secretary of State in Council are afterwards claimed
by another person, the Secretary of State in Council shall not be responsible
for the same to such other claimant, but such other claimant may have re-
course against the person to whom payment was made

Secretary of
State in
Council not
responsible
to second
claimant

34 PROVIDED that if in any case a new claimant establishes his title to
any principal moneys or dividends paid to a former claimant, and is unable to
obtain payment thereof from the former claimant, the Court of Chancery
shall on application by petition by the new claimant, verified as the Court
requires, order the Secretary of State in Council to pay to the new claimant
such sum of money, or make such other order on the application, as the court
thinks just

Order in
favour of
second
claimant,
showing
title

35 and 36 [Rep as to U K 46 & 47 Vict., c. 39 (S L R) Omitted as
being spent]

37 THIS Act shall be and is hereby declared to be a full and complete
indemnity and discharge to the East India Company, and the directors thereof
and the commissioners for the reduction of the national debt, and * * *
the Bank of England, their officers and servants, and every of them, for all
things done or permitted to be done pursuant thereto and the same shall
not be questioned or impeached in any court of law or equity whatever to
their prejudice or detriment

Indemnity to
East India
Company,
commis-
sioners for
reduction of
national
debt, and
Bank of
England.

THE EAST INDIA LOAN ACT, 1873²

(36 & 37 Vict., c. 32)

*An Act to enable the Secretary of State in Council of India to raise Money in
the United Kingdom for the Service of the Government of India*

[16th June, 1873]

[Preamble reciting that the Security Fund of the India Company is insufficient
to redeem or commute the capital stock of the East India Company and
enacting words Rep (U K) 56 & 57 Vict., c. 54 (S L R)]

1 IT shall be lawful for the Secretary of State in Council of India, at any
time or times, to raise in the United Kingdom for the service of the Govern-
ment of India, such sum or sums of money not exceeding in the whole six
millions of pounds sterling, as may be requisite to effect such redemption or
commutation, such sum or sums to be raised by the creation and issue of bonds
or debentures, or capital stock bearing interest, or annuities, or partly by one
of such modes and partly by another or others, and also to raise any further
sum or sums of money not exceeding two millions of pounds sterling due at

Power to the
Secretary of
State in
Council of
India to
raise any
sums not
exceeding
8,000,000¹

¹ The words "the governor and company of" were repealed (U K.) by 56 & 57 Vict.,
c. 54 (S L R.)

² This Act may be cited, with eighteen others, as the East India Loans Acts, 1859 to 1893—
see the Short Titles Act, 1896 (59 & 60 Vict., c. 14), *post*

any one time, such last mentioned sum or sums to be raised by the creation and issue of bonds and debentures, but not of capital stock bearing interest, or of annuities

* * * * *

Bonds may be issued under the hands of two members of the Council countersigned by Secretary of State

2 ALL bonds issued under the authority of this Act may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State for India, or one of his under-secretaries, or his assistant under-secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest as the said Secretary of State in Council may think fit

Debentures may be issued

3 ALL debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as afore-said, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such rates and on such terms as may be determined by the Secretary of State in Council

As to payment of principal and interest on debentures

4 ALL debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively, and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein, and the principal moneys and interest secured by such debentures or by any debentures issued by the Secretary of State in Council of India under the authority of former Acts, shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England

Debentures transferable by delivery

Coupons by delivery

5 ALL or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable by the delivery of such debentures, and the coupons for interest annexed to any debenture issued under the authority of this Act shall also pass by delivery

Capital stock and annuities may be created and issued

6 ANY capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act, shall be at such rate per centum per annum, as the Secretary of State in Council may think fit, and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council, and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock, and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities

Transfer book of such capital stock and annuities to be kept

7 IN case of the creation and issue of any such capital stock or of any such annuities there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be

¹ The proviso to this section has been repealed as to the U K by 46 & 47 Vict., c 39 (S L R) and is omitted as being obsolete

made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorised by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses, and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof, and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law, and no stamp duties whatsoever shall be charged on the said transfers or any of them

8 ALL annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of London, or otherwise

Annuities deemed personal estate

9 THE whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed eight millions, nor shall it be lawful to increase under this Act the permanent debt in England, secured on the revenues of India, beyond six millions, or such lesser sum as may be required to redeem or commute the said capital stock

The whole amount charged on revenue of India not to exceed 8 000,000*l*

10. UPON or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid

Power to raise money for payment of principal money

11. ALL bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories.

Securities, etc., to be charged on revenues of India.

12 THE provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds for stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act as if such provisions were here repeated and re-enacted with reference thereto

Provisions as to compositions for stamp duties on India bonds extended to bonds, etc., under this Act.

13 ALL provisions now in force in, anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud,

Forgery of debentures to be punishable as forgery of

East India bonds. shall extend and be applicable to and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority

14 [*Rep 37 & 38 Vict, c 3, s 15*]

Saving powers of the Secretary of State in Council. 15 THIS Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof

Stock created hereunder to be deemed East India stock. 16 ANY capital stock created under this Act shall be deemed to be East India stock, within the Act twenty-second and twenty-third Victoria, chapter thirty-five, section thirty-two, unless and until Parliament shall otherwise provide, and any capital stock created under this Act or under Act of the thirty-second and thirty-third Victoria, chapter one hundred and six, shall be deemed to be and shall mean India stock within the Act of the twenty-sixth and twenty-seventh Victoria, chapter seventy-three, anything in the said last mentioned Act to the contrary notwithstanding

THE INDIAN RAILWAY COMPANIES ACT, 1873

(36 & 37 Vict., c 43.)

An Act to enable Indian Railway Companies to issue and register Shares and Securities in India

[21st July, 1873]

[*Preamble*]

Every Indian railway company may establish offices in India for the issue and registration of shares. 1 ***¹ Every company now formed, or which shall hereafter be formed, whether by amalgamation or otherwise, for constructing, maintaining and working railways in India, may establish at such places in India as they think fit an office for the issue, registration, and transfer of shares, stock, bonds, and securities of the company, and the registration of transfers of shares, stock, bonds, and securities, and the registration of shareholders, and may from time to time remove or alter the place of any such office, and may make such regulations, consistent with the provisions of this Act, as they think fit, for enabling and facilitating the issue, registration, and transfer of shares, stock, bonds and securities, and the registration of transfers of shares, stock, bonds, and securities, and the registration of the shareholders at such office, and all and every the powers and provisions in relation to the issue, transfer, and registration of shares, stock, bonds, and securities, and the registration of shareholders in Great Britain, contained in any deed of settlement or Act of Parliament under or by which the company shall be constituted or governed, shall apply and be in force as to the shares, stock, bonds, and securities, and the registration of transfers thereof, and the registration of shareholders, to be

¹ Enacting words repealed (U K), 56 & 57 Vict , c 54 (S L R)

issued, transferred, registered and made at such office in India, except so far as the same are inconsistent with the provisions of this Act

2 EVERY such company may keep at their office in India books to be called respectively "the India register of sharcholders", "the India register of holders of consolidated stock", "the India shareholders address book", "the India register of transfers", and also books for the registration of bonds, debentures, mortgages, and the debenture stock, and the transfers thereof respectively, and the books so kept shall be of the like validity and effect as the books kept for the like purposes by the company in England, and accounts of all entries and alterations made in the books of the company in India shall be transmitted to the principal office of the same company in England

Registers to be kept in India

3 PROVIDED always, that if and when the company have offices in India at more places than one then the company shall substitute for or add to the word "India" in the titles of the register kept at every such office, the name of the place at which the particular office is established

Registers at several offices in India to be distinguished

4 ALL transfers of any such shares, stock, bonds, and securities as aforesaid shall be made at the office at which the same respectively shall for the time being be registered, and no share, stock, bond, or security shall be on the registry of more than one office at one time and the same time Provided always, that the company may keep in England duplicates of any of its books of register kept in India, but no such duplicate book shall be deemed a register

Where transfers to be registered. Shares, etc , to be registered at one office only

5 SUBJECT to the regulations from time to time made by such companies respectively, with respect to the issue, registration, and transfer of shares, stock, bonds, and securities respectively, and the registration of transfers of shares, stock, bonds and securities respectively, every such company may and shall, on notice in writing by the holders of any share, stock, bond, or security to the person for the time being acting as secretary, managing director, or principal clerk at the office in England or in India where such share, stock, bond, or security shall then be registered, transfer the share, stock, bond, or security from the register thereof at that office to the corresponding register at any other office of the company where for the time being a register shall be kept to be appointed and named in such notice, and as soon as conveniently may be after the receipt of any such notice such secretary, managing director, or principal clerk shall transmit advice thereof to the office to which the transfer is directed to be made

Shares, etc , may be transferred from one register to another at the option of the holder

6 For the purpose of determining any question as to the place or jurisdiction within which any share, stock, bond, or security shall be deemed to be or to have been situate at any given time, the locality, whether in India or in Great Britain, of the register in which such share, stock, bond, or security shall be or have been actually registered for the time being, shall be deemed to be or have been at such time the locality of such share, stock, bond or security, and so soon as notice shall have been given as aforesaid for the transfer of any share, stock, bond, or security from one register to another, the share, stock, bond, or security shall for the purpose of this section

Locality of shares, etc

482 *The Indian Railway Companies Act, 1873* [36 & 37 Vict, c 43
The Slave Trade (East African Courts) [36 & 37 Vict, c. 59.
Act, 1873

Le deemed to be actually registered in the register to which it is so directed to be transferred

Saving of
rights.

7 NOTHING in this Act shall interfere with or affect any powers which are now vested in any Indian railway company by any Acts of Parliament by which the company is governed

THE SLAVE TRADE (EAST AFRICAN COURTS) ACT, 1873.

(36 & 37 Vict., c 59.)

*An Act for regulating and extending the Jurisdiction in matters connected with the Slave Trade of the Vice-Admiralty Court at Aden and of Her Majesty's Consuls under Treaties with the Sovereigns of Zanzibar, Muscat, and Madagascar, and under future Treaties*¹

[5th August, 1873]

[Preamble reciting 6 & 7 Vict, c 94, 32 & 33 Vict, c, 75, and enacting words—Rep (U K), 56 & 57 Vict, c 54 (S L R.)]

Short title.

1. THIS Act may be cited as the Slave Trade (East African Courts) Act, 1873

Definition of
terms.

2 IN this Act—

The term “ vessel ” means any vessel used in navigation .

The term “ treaty ” includes any convention, agreement, engagement or arrangement

The term “ foreign state ” includes any foreign nation, people, tribe, sovereign, prince, chief, or headman

The term “ existing East African slave trade treaty ” means a treaty made by or on behalf of Her Majesty with any foreign state in Arabia or on the east coast of Africa, or the shores of the Persian Gulf, or in any island lying off Arabia, or off such coast or shores, including the islands of Zanzibar and Madagascar and the Comoro islands, for the more effectual suppression of the slave trade, and in force at the passing of this Act

* * * * *

Jurisdiction
of courts in
regard to
slave vessels,
slaves, goods,
and effects

3 ALL jurisdiction which is by any Act conferred on the Vice-Admiralty Courts in Her Majesty's possessions abroad, in regard to British vessels seized by the commander or officer of any of Her Majesty's ships on suspicion of being engaged in or fitted out for the slave trade, and in regard to the persons, slaves, goods, and effects on board thereof, is hereby conferred on the East

¹ Amended and repealed in part, by 42 & 43 Vict, c 38, printed *post*

² The remainder of this section has been repealed by 42 & 43 Vict c 38, s 2, and is omitted

African courts, in regard to vessels seized by the commander or officer of any of Her Majesty's ships on suspicion of being engaged in or fitted out for the slave trade, and to the persons, slaves, goods and effects on board thereof, in the following cases, namely,

- (1) where the vessel seized is a British vessel,
- (2) where the vessel seized has been seized in pursuance of any existing East African slave trade treaty, and
- (3) where the vessel seized is not shown to the court to be entitled to claim the protection of the flag of any foreign state

Each of the East African courts shall have the same jurisdiction in regard to any person who has been seized either at sea or land, on the ground that he has or is suspected to have been detained as a slave, for the purpose of the slave trade, as the court would have under this section if he had been so detained on board a vessel that was seized and brought in for adjudication

All jurisdiction exercised under this section shall for the purposes of any such Act as above mentioned be deemed to be exercised in pursuance of that Act

4 [*Appeal to Her Majesty in Council*—*Rep 53 & 54 Vict, c 27, s 18*]

5 [*Making of rules and tables of fees under 26 & 27 Vict, c 24, ss 14 to 18*—*Rep 53 & 54 Vict, c 27, s 18*]

6 THIS Act shall apply to all cases of vessels, slaves, goods, and effects seized by the commander or officer of any of Her Majesty's ships, and adjudicated upon by any of the East African courts, whether before or after the passing of this Act

Application of Act to cases already adjudicated

7 WHERE any treaty in relation to the slave trade is made after the passing of this Act, by or on behalf of Her Majesty, with any foreign state in Arabia, or on the east coast of Africa, or on the shores of the Persian Gulf, or in any island lying off Arabia or off such coast or shores, including the islands of Zanzibar and Madagascar and the Comoro islands, Her Majesty may by Order in Council direct that as from such date, not being earlier than the date of the treaty, as may be specified in the order, such treaty shall be deemed, and thereupon (as from the said date, or if no date is specified, as from the date of such order) such treaty shall be deemed to be an existing East African slave trade treaty within the meaning of this Act, and the provisions of this Act shall apply and be construed accordingly

Extension of Act to future treaties

Her Majesty may by such order, or any subsequent order referring to the same treaty, render the application of this Act subject to such conditions, exceptions, and qualifications as may be deemed expedient, and limit or exclude the jurisdiction of any of the East African courts

Her Majesty may by such order, or any subsequent order referring to the same treaty, direct that any court, consul, or person authorized by or in pursuance of an Order in Council to exercise within the dominions of the foreign state with whom the treaty is made jurisdiction in matters relating to the

slave trade, shall, subject to the conditions, exceptions, and limitations, if any, contained in the order, exercise all the jurisdiction conferred by this Act on the East African courts, and such court, consul or person when exercising such jurisdiction shall be deemed to be one of the East African courts within the meaning of this Act

Every such order shall recite or embody the terms of the treaty, so far as they relate to the slave trade, and shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then next meeting of Parliament, and shall also be published in the *London Gazette*

A treaty, whether made before or after the passing of this Act, which ceases to be in force, shall cease to be an existing East African slave trade treaty within the meaning of this Act

8 & Sch. [*Rep as to U K 46 & 47 Vict, c 39 (S L R)* *Omitted as being spent*]

THE EXTRADITION ACT, 1873

(36 & 37 Vict., c. 60)

An Act to amend the Extradition Act, 1870

[5th August, 1873]

[*Preamble*]

Construction
of Act and
short title
33 & 34 Vict,
c 52

1. 1 * * * This Act shall be construed as one with the Extradition Act, 1870 (in this Act referred to as the Principal Act) and the principal Act and this Act may be cited together as the Extradition Acts, 1870 and 1873, and this Act may be cited alone as the Extradition Act, 1873

Explanation
of sect. 6 of
33 & 34 Vict,
c. 52

2. WHEREAS by section six of the principal Act it is enacted as follows
“ Where this Act applies in the case of any foreign state, every fugitive
“ criminal of that state who is in or suspected of being in any part of Her
“ Majesty’s dominions, or that part which is specified in the order applying
“ this Act (as the case may be), shall be liable to be apprehended and surrender-
“ ed in manner provided by this Act, whether the crime in respect of which the
“ surrender is sought was committed before or after the date of the order, and
“ whether there is or is not any concurrent jurisdiction in any court of Her
“ Majesty’s dominions over that crime ”

And whereas doubts have arisen as to the application of the said section to crimes committed before the passing of the principal Act, and it is expedient to remove such doubts, it is therefore hereby declared that—

a crime committed before the date of the order includes in the said section a crime committed before the passing of the principal Act, and the principal Act and this Act shall be construed accordingly

¹ Enacting words rep (U K.) 56 & 57 Vict., c. 54 (S L R)

3. [Recital—Rep (U K), 56 and 57 Vict, c 54 (S L R)]

Every person who is accused or convicted of having counselled, procured, commanded aided, or abetted the commission of any extradition crime, or of being accessory before or after the fact to any extradition crime, shall be deemed for the purposes of the principal Act and this Act to be accused or convicted of having committed such crime, and shall be liable to be apprehended and surrendered accordingly

4. * * * * * The provisions of the principal Act relating to depositions and statements on oath taken in a foreign state, and copies of such original depositions and statements do and shall extend to affirmations taken in a foreign state, and copies of such affirmations

Explanation of sect 14 of 33 & 34 Vict c. 52, as to statement on oath including affirmations. Power of taking evidence in United Kingdom for foreign criminal matters.

5. A SECRETARY OF STATE may, by order under his hand and seal, require a police magistrate or a justice of the peace to take evidence for the purposes of any criminal matter pending in any court or tribunal in any foreign state, and the police magistrate or justice of the peace, upon the receipt of such order, shall take the evidence of every witness appearing before him for the purpose in like manner as if such witness appeared on a charge against some defendant for an indictable offence and shall certify at the foot of the depositions so taken that such evidence was taken before him, and shall transmit the same to the Secretary of State, such evidence may be taken in the presence or absence of the person charged, if any, and the fact of such presence or absence shall be stated in such deposition

Any person may, after payment or tender to him of a reasonable sum for his costs and expenses in this behalf, be compelled, for the purposes of this section, to attend and give evidence and answer questions and produce documents, in like manner and subject to the like conditions as he may in the case of a charge preferred for an indictable offence

Every person who wilfully gives false evidence before a police magistrate or justice of the peace under this section shall be guilty of perjury

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

6. THE jurisdiction conferred by section sixteen of the principal Act on a stipendiary magistrate, and a sheriff or sheriff substitute, shall be deemed to be in addition to, and not in derogation or exclusion of, the jurisdiction of the police magistrate

Explanation of sect. 16 of 33 & 34 Vict, c 52

7. FOR the purposes of the principal Act and this Act a diplomatic representative of a foreign state shall be deemed to include any person recognized by the Secretary of State as a consul general of that state, and a consul or vice-consul shall be deemed to include any person recognized by the governor of a British possession as a consular officer of a foreign state

Explanation of diplomatic representative and consul

8. THE principal Act shall be construed as if there were included in the first schedule to that Act the list of crimes contained in the schedule to this Act

Addition to list of crimes in schedule.

¹ The words " Be it declared that " were repealed (U K) by 56 & 57 Vict, c 54 (S L R).

SCHEDULE

LIST OF CRIMES

The following list of crimes is to be construed according to the law existing in England or in a British possession (as the case may be) at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act

Kidnapping and false imprisonment

Perjury, and subornation of perjury, whether under common or statute law

24 & 25 Vict.,
c. 90, etc

Any indictable offence under the Larceny Act, 1861, or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act

Any indictable offence under the Malicious Damage Act, 1861, or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act

Any indictable offence under the Forgery Act, 1861, or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act

Any indictable offence under the Coinage Offences Act, 1861, or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act

Any indictable offence under the Offences against the Person Act, 1861, or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act

Any indictable offence under the laws for the time being in force in relation to bankruptcy which is not included in the first schedule to the principal Act

THE SLAVE TRADE ACT, 1873

(36 & 37 Vict., c. 38.)

An Act for consolidating with amendments the Acts for carrying into effect Treaties for the more effectual Suppression of the Slave Trade, and for other purposes connected with the Slave Trade

[5th August, 1873]

[Preamble and enacting words—Rep (U K), 56 & 57 Vict, c 54 (S L R)]

Preliminary

Short title
Interpret
ation

1. THIS Act may be cited as the Slave Trade Act, 1873

2. IN this Act—

“ ” * * * * *

the term “ vessel ” means any vessel used in navigation

¹ The definitions of “ the Treasury ”, “ the admiralty ”, and “ the Slave Trade Act, 1824 ” were repealed (U K) by 56 & 57 Vict, c 54 (S L R)

the term "British possession" means any plantation, territory, settlement, or place situate within Her Majesty's dominions, and not forming part of the United Kingdom

the term "governor" includes the officer for the time being administering the government of any colony, and where there is a local governor or lieutenant-governor under a governor general means the local governor or lieutenant-governor

* * * * *

the term "foreign state" includes any foreign nation, people, tribe, sovereign, prince, chief, or headman

the term "vessel of a foreign state" means a vessel which is justly entitled to claim the protection of the flag of a foreign state, or which would be so entitled if she did not lose such protection by being engaged in the slave trade

the term "treaty" includes any convention, agreement, engagement, or arrangement

the term "slave trade" when used in relation to any particular treaty does not include anything declared by such treaty not to be comprised in the term or in such treaty

the term "Vice-Admiralty Court" does not include any Vice-Admiralty Court which for the time being has under its commission a limited jurisdiction only in matters relating to the slave trade

the term "British slave court" means the High Court of Admiralty of England, every Vice-Admiralty Court in Her Majesty's dominions out of the United Kingdom, and every East African Court for the time being within the meaning of the Slave Trade (East African Courts) Act, 1873

the term "slave court" means every British slave court, every mixed commission or court established under any existing slave trade treaty, and the court of any foreign state having jurisdiction to try and condemn a vessel engaged in the slave trade

the term "existing slave trade treaty" means a treaty made by or on behalf of Her Majesty or Her Royal predecessors with any foreign state for the more effectual suppression of the slave trade and in force at the passing of this Act

Seizure of Slave Ships

- British jurisdiction, or is not a vessel of a foreign state, for any commander or officer of any of Her Majesty's ships, for any officer bearing Her Majesty's commission in the army or navy, for any officer of Her Majesty's customs in the United Kingdom, Channel Islands, or Isle of Man, for the governor of a British possession, or any person authorized by any such governor, and for any commander or officer of any cruiser of a foreign state authorized in pursuance of any existing slave trade treaty, and
- (b) if the vessel is the vessel of a foreign state, for any commander or officer of any of Her Majesty's ships, when duly authorized in that behalf, in pursuance of any treaty with that state, and for any commander or officer of any cruiser of that foreign state,

to visit and seize and detain such vessel, and to seize and detain any person found detained or reasonably suspected of having been detained as a slave, for the purpose of the slave trade, on board any such vessel, and to carry away such vessel and person, together with the master and all persons, goods, and effects on board any such vessel, for the purpose of bringing in such vessel, persons, goods, and effects for adjudication

All vessels, slaves, persons, goods, and effects which may be forfeited under the enactments with which this Act is to be construed as one as hereinafter mentioned, may be visited, seized, and detained by any commander, officer, governor, or person authorized by this section to seize a British vessel

Vessels equipped for traffic in slaves to be deemed to be in slave trade.

4. WHERE any of the particulars mentioned in the first schedule to this Act are found in the equipment or on board of any vessel visited, seized or detained in pursuance of this Act, such vessel shall, unless the contrary be proved, be deemed to be fitted out for the purposes of and engaged in the slave trade, and in such case, even though the vessel is restored, no damages shall be awarded against the seizer under this Act in respect of such visitation, seizure, or detention, or otherwise upon such restoration

Provided that this section shall not extend to the vessel of any foreign state except so far as may be consistent with the treaty made with such state

Courts

Jurisdiction of courts in regard to slave vessels, slaves, goods, and effects

5 THE High Court of Admiralty of England and Vice-Admiralty Court in Her Majesty's dominions out of the United Kingdom shall have jurisdiction to try and condemn or restore any vessel, slave, goods, and effects alleged to be seized, detained, or forfeited, in pursuance of this Act, and on restoring the same to award such damages in respect of the visitation, seizure, and detention of such vessel, goods, and effects, and of any person on board such vessel, and in respect of any act or thing done in relation to such visitation, seizure, or detention, or in respect of any of such matters, and in any case to make such order as to costs as, subject to the provisions of this Act and of any existing slave trade treaty, the court may think just

Provided that nothing in this section shall give to any court any jurisdiction inconsistent with any existing slave trade treaty over a vessel which is shown to such court to be the vessel of any foreign state and which has not been engaged within British jurisdiction in the slave trade, but where any vessel of a foreign state is liable to be condemned by a British slave court, such court shall have the same jurisdiction as if she were a British vessel

Each of the said courts shall have the same jurisdiction in regard to any person who has been seized, either at sea or on land, on the ground that he has or is suspected to have been detained as a slave, for the purpose of the slave trade as the court would have under this section if he had been so detained on board a vessel that was seized and brought in for adjudication

6 WHERE any vessel or slave seized by the commander or officer of the cruiser of any foreign state is brought in for adjudication in a British slave court, all proceedings for the condemnation of such vessel and slave, and the goods and effects on board such vessel, shall be taken in the name of Her Majesty by some person duly authorized in that behalf

Proceedings upon seizure by a foreigner

Mixed Courts

7 WHERE any existing slave trade treaty contains provisions for the time being in force for the appointment of any mixed court or commission for deciding cases under such treaty, it shall be lawful for Her Majesty from time to time to appoint such commissioners, judges, arbitrators, secretary, registrar, and other officers as are mentioned in such provisions

Appointment of judges, arbitrators, secretary, etc., to mixed courts and commissions.

There shall be paid to every commissioner, judge, arbitrator, secretary, registrar, and other officer so appointed, such salary as the Treasury may from time to time direct

In case of the death, or sickness, or absence either on leave or from any other lawful impediment, of any such commissioner, judge, arbitrator, secretary, registrar, or other officer, whether British or not, the vacancy shall be temporarily filled in manner provided by the treaty

8. THE regulations contained in any existing slave trade treaty for the time being in force, with respect to any mixed court or commission, shall have effect as if they were enacted in this Act, and such court or commission shall have all necessary jurisdiction for the purpose of carrying into effect any treaty referring to them, and in particular shall have jurisdiction to try, condemn, and restore British vessels seized in pursuance of such treaty on suspicion of being engaged in the slave trade, and shall, for the purpose of their jurisdiction, have the same power as any Vice-Admiralty Court in Her Majesty's dominions has, and may accordingly take evidence, administer oaths, and enforce the attendance of witnesses, and require and enforce the production of documents in like manner as any such court

Regulations as to powers of mixed courts.

Disposal of Vessels and Slaves.

9. A VESSEL seized in pursuance of this Act, and which is not a British vessel, may be taken into Her Majesty's service for the purpose of

the Admiralty deem to be a proper price for the same (which sum is in this Act called the appraised value of such vessel) or, if not so taken, shall be broken up, and the materials thereof shall be publicly sold in separate parts.

Provided that nothing herein shall prejudice the right of the government of any foreign state, under any treaty, to require such vessel to be broken up, or to take such vessel into its service upon payment of a sum fixed in accordance with such treaty, and any sum paid by the government of a foreign state for a vessel taken into its service after condemnation by a slave court shall be deemed for the purposes of this Act to be the appraised value of the vessel

Disposal of
slaves.

10. WHERE any slaves are seized in pursuance of this Act, they shall, for the purpose only of seizure, prosecution, and condemnation, be deemed to be property, and shall be condemned as forfeited to the sole use of Her Majesty for the purpose only of divesting all other right or interest therein, and shall not be treated as slaves, but shall be provided for, pending the proceedings for their condemnations in such manner, and shall on condemnation be disposed of in such manner, or delivered over to such persons, as the court having cognizance of the case may adjudge, subject to the regulations (if any) which are from time to time made by the Treasury, and the Treasury may from time to time make, alter, and revoke regulations for this purpose so that they be consistent with any provisions in this behalf contained in any existing slave trade treaty

Bounties

Bounty and
other pay-
ments to
seizors
on British
vessels

11 WHERE a vessel (whether British or not) or slave, goods, or effects seized in pursuance of this Act by any commander or officer of any of Her Majesty's ships have been condemned by a slave court, there shall be paid to the commander, officers, and crew of such ship the following sums

- (1) A slave bounty of five pounds for every slave so condemned who is delivered over, or, if the commander of the ship so elect, a tonnage bounty of four pounds for every ton of the tonnage of the vessel condemned
- (2) That part to which Her Majesty is entitled of the appraised value of the vessel condemned, or, if such vessel was broken up and the materials thereof publicly sold in separate parts, of the net proceeds of such sale after deducting the charges of prosecution
- (3) Where the condemned vessel—
 - (a) was brought into port and was broken up in pursuance of the order of the slave court, and the materials thereof publicly sold in separate parts, or
 - (b) was abandoned or destroyed prior to condemnation, and the slave court by the decree of condemnation declared that, after full consideration by the court of the circumstances of the case, the seizors had satisfied the court that such abandonment or destruction was inevitable, or otherwise under the circumstances proper and justifiable,

a further tonnage bounty at the rate of thirty shillings for every ton of the tonnage of the vessel, and

- (4) The net proceeds to which Her Majesty is entitled (after deducting the charges of prosecution) of any such goods and effects which the slave court ordered to be sold

Where any slave so condemned is not delivered over in consequence of death, sickness, or other inevitable circumstances, the Treasury may, if they think fit, pay to the seizors of such slave one moiety of the slave bounty which would have been due in respect of such slave if he had been delivered over

12 WHERE any vessel, slave, goods, or effects seized in pursuance of this Act otherwise than by the commander or officer of one of Her Majesty's ships, or of the cruiser of a foreign state, have been condemned by a slave court there shall be paid the following sums

Bounty and other payments where vessel, slave, or goods not seized by cruisers.

- (1) Two-thirds of the appraised value of the vessel or (if the vessel was broken up and the materials thereof publicly sold in separate parts) of the net proceeds of such sale, and two-thirds of the net proceeds of such goods and effects (after deducting from such appraised value or net proceeds the charges of prosecution) for the use of Her Majesty, to such persons as the Treasury may from time to time appoint, to be carried to the Consolidated Fund
- (2) The remaining third part of the said appraised value or net proceeds of the vessel and of the net proceeds of such goods and effects to the person who lawfully seized and prosecuted the ship, goods, and effects respectively to condemnation
- (3) For every slave so condemned who is delivered over, a slave bounty of five pounds to the person who prosecuted the same to condemnation

Where any slave so condemned is not delivered over in consequence of death, sickness, or other inevitable circumstances, the Treasury may, if they think fit, pay in respect of such slave one moiety of the slave bounty which would have been due in respect of such slave if he had been delivered over

13. WHERE any vessel, goods, or effects have been seized in pursuance of this Act by the commander or officer of a cruiser of any foreign state and been condemned by a British slave court, such portion of the appraised value of the vessel, or (if the vessel was broken up and the materials thereof publicly sold in separate parts) of the net proceeds of such sale, and of the net proceeds of the goods and effects, as is, under any treaty with such state, payable to the seizors, shall be paid to such person as the Treasury may direct, to be disposed of in accordance with such treaty

Payment of proceeds of vessels, etc, when seized by a foreign cruiser

14. IN order to obtain payment of the bounty, there shall be produced to the Treasury the following evidence, or such other evidence as the Treasury may deem sufficient, namely,

Regulations as to payment of bounty

- (a) a copy, duly certified of the decree of condemnation of the vessel or slave

- (b) if any tonnage bounty is claimed, a certificate from some person authorized for the time being to act as a registrar of British ships of the dimensions and tonnage of the vessel
- (c) if a slave bounty is claimed, a certificate from the person appointed to receive the slaves of the number of slaves condemned and delivered over

For the purpose of bounty the tonnage of a vessel shall be calculated and ascertained in the like manner in which, for the time being, the tonnage of a vessel is calculated and ascertained for the purpose of registering the same as a British vessel, or, if the same cannot be satisfactorily ascertained in that manner, shall be ascertained in such manner as the Treasury may consider satisfactory

Payment by
Treasury of
costs, dam-
ages, and
expenses

15. WHERE any visitation, seizure, detention, or prosecution purports to have been made or instituted in pursuance of this Act, the Treasury when required under any treaty shall, and in any other case may, if they think fit, pay the whole or any part of any costs, expenses, compensation, and damages which may have been awarded against the person making or instituting such visitation seizure, detention, or prosecution, or any costs and expenses which may have been incurred in respect of the same, or on account of any person on board any vessel so visited, seized, or detained, but nothing in this section shall exempt the commander or officer of the ship or other person by whom the visitation, seizure, detention, or prosecution was made or instituted from his liability to make good any sum so paid when required by the Treasury so to do, and when any such commander or officer, or other person serving under the Admiralty, or any person serving under any other department of the Government, is so required to make good any sum, that sum shall, if the Treasury so direct, be deducted by the Admiralty or other department of the Government under whom such person is serving, from any payment to which such commander, officer, or person is entitled on account of salary, pay, prize, or bounty

Payment and
distribution
of bounties
and other
sums

16 THE bounties and all other sums payable by the Treasury in pursuance of this Act shall be paid out of moneys provided by Parliament for the purpose

The provisions of "The Naval Agency and Distribution Act, 1864", shall apply to all money payable to the commanders, officers, and crews of Her Majesty's ships in pursuance of this Act ^{27 & 28 V c. 24}

Miscellaneous

- 17. ALL persons authorized to make seizures under this Act shall, in making and prosecuting any such seizure, have the benefit of all the protection granted to persons authorized to make seizures under any Act for the time being in force relating to Her Majesty's customs in the United Kingdom, in like manner as if the enactments granting such protection were herein enacted and in terms made applicable thereto

18. IN either of the following cases, namely,

- (a) where any proceeding has been instituted in any slave court for the condemnation or restitution of any vessel, slave, goods, or effects purporting to have been seized in pursuance of this Act and is still pending, or
- (b) where any vessel, slave, goods, or effects purporting to have been seized in pursuance of this Act, have been condemned or restored, or any other final judgment has been pronounced thereon by any slave court,

Pendency of suit or decree a bar to proceeding for recovery of vessel, damages, etc

the pendency of such proceeding, or the condemnation or restitution, or other final judgment thereon, as the case may be, shall be a complete bar to every legal proceeding whatever for the recovery of such vessel, slave, goods, or effects, or of damages for any costs, expenses, loss, or injury sustained by any person by or in consequence of the visitation, seizure, or detention of such vessel, slave, goods, or effects, or of any person on board such vessel, or by or in consequence of any act or thing done in relation to such visitation, seizure, or detention, or in pursuance of this Act or any existing slave trade treaty, and may be pleaded in bar, or given in evidence under the general issue

19. THE High Court of Admiralty of England shall have jurisdiction to hear and determine any question arising with respect to the right of any person to any payment in pursuance of this Act in respect of any condemned vessel, slave, goods, or effects, and any question of joint capture or seizure which may arise in respect of any vessel, slave, goods, or effects seized in pursuance of this Act, and also as well to review as to enforce any decree, declaration, or order of any British slave court made in pursuance of this Act

Power of High Court of Admiralty of England as to bounties, reviewing and enforcing decrees, etc

20. THE registrar of the High Court of Admiralty of England may, on the application of any person aggrieved, or of the Treasury, tax or review the taxation of any costs, charges, or expenses incurred or alleged to be incurred in any proceeding taken in any British slave court, or in any mixed commission or court in Her Majesty's dominions, and shall for this purpose have the same jurisdiction and powers as he has in the taxation of any costs, charges or expenses incurred in any proceeding in the High Court of Admiralty

Review of taxation by registrar of Court of Admiralty

21. THE Treasury may appeal from any decree, order, or declaration which is made by any British slave court in pursuance of this Act and involves the payment by the Treasury of any bounty, costs, expenses, compensation, damages, or other moneys in like manner as if they were parties to the proceeding in which such decree, order, or declaration was made

Appeal by Treasury

22 ANY person who wilfully gives false evidence in any proceeding taken in pursuance of this Act in any slave court shall be guilty of an offence against this Act and shall be liable to the like penalty as if he had been guilty of perjury, or in a British possession, of the offence by whatever name called, which if committed in England would be perjury

Prosecution for false evidence.

¹ Section 20, as far as relates to the taxation of any costs, charges, and expenses which can be taxed in pursuance of 53 & 54 Vict , c 27, is repealed by s 18 of that Act and as respects any courts out of Her Majesty's dominions as from the date of any order applying that Act. For 53 & 54 Vict., c 27, see post.

Returns by
registrars

23. THE registrar of every British slave court, and if appointed by Her Majesty, of every other slave court, shall from time to time make returns of the cases adjudged in such court in pursuance of this Act, at such times and in such form and containing such particulars as may be from time to time directed by any rule established with respect to such court¹ or if there is no such rule by Order in Council

Slave Trade Act, 1824.

Incorporation
with un-
repealed
portions
of 5 Geo 4,
c 113

24 THIS Act shall be construed as one with the enactments of the Slave Trade Act, 1824, and any enactments amending the same, so far as they are in force at the time of the passing of this Act, and are not repealed by this Act, and the expression "this Act", when used in this Act, shall include those enactments

Recovery of
forfeitures
under 5
Geo 4, c 113

25. ALL pecuniary forfeitures and penalties imposed by the said enactments, with which this Act is to be construed as one, may be sued for, prosecuted, and recovered in any Court of Record or of Vice-Admiralty in any part of Her Majesty's dominions wherein the offence was committed, or where the offender may be, in like manner as any penalty or forfeiture incurred in the United Kingdom under any Act for the time being in force relating to Her Majesty's Customs, or (in the case of the High Court of Admiralty or of a Court of Vice-Admiralty) in like manner as any vessel seized in pursuance of this Act

Such pecuniary penalties and forfeitures shall, subject to the express provisions of the said enactments, be paid and applied in like manner as the net proceeds of a vessel seized otherwise than by the commander or officer of one of Her Majesty's ships, or of the cruiser of a foreign state

Jurisdiction
of Court over
offences
under 5 Geo
4, c 113

26 ANY offence against this Act or the said enactments with which this Act is to be construed as one, or otherwise in connexion with the slave trade, shall for all purposes of and incidental to the trial and punishment of a person guilty of such offence, and all proceedings and matters preliminary and incidental to and consequential on such trial and punishment, and for all purposes of and incidental to the jurisdiction of any court, constable, and officer with reference to such offence, be deemed to have been committed either in the place in which the offence was committed, or in the county of Middlesex, or in any place in which the person guilty of the offence may for the time being be, either in Her Majesty's dominions, or in any foreign port or place in which Her Majesty has jurisdiction, and the offence may be described in any indictment or other document relating thereto, as having been committed at the place where it was wholly or partly committed, or as having been committed on the high seas or out of Her Majesty's dominions, and the venue or local description in the margin may be that of the place in which the trial is held

¹ The words "under the Vice Admiralty Courts Act, 1803", were repealed by 53 & 54 Vict, c 27, which came into force in India on the 1st July 1891 *see post*

A treaty whether made before or after the passing of this Act, which ceases to be in force shall cease to be an existing slave trade treaty within the meaning of this Act

Repeal

30 & Second Sch. [Rep as to U K 46 & 47 Vict, c. 39 (S L R).
Omitted as being spent]

FIRST SCHEDULE.

EQUIPMENTS WHICH ARE *PRIMA FACIE* EVIDENCE OF A VESSEL BEING
 ENGAGED IN THE SLAVE TRADE

First—Hatches with open gratings, instead of the close hatches which are usual in merchant vessels

Secondly—Divisions or bulkheads in the hold or on deck more numerous than are necessary for vessels engaged in lawful trade

Thirdly—Spare plank fitted for being laid down as a second or slave deck

Fourthly—Shackles, bolts, or handcuffs

Fifthly—A larger quantity of water in casks or in tanks than is requisite for the consumption of the crew of the vessel as a merchant vessel

Sixthly—An extraordinary number of water casks or of other vessels for holding liquid unless the master shall produce a certificate from the custom-house at the place from which he declared outwards, stating that a sufficient security had been given by the owners of such vessel that such extra quantity of casks or of other vessels should only be used for the reception of palm oil, or for the other purposes of lawful commerce

Seventhly—A greater quantity of mess tubs or kids than are requisite for the use of the crew of the vessel as a merchant vessel

Eighthly—A boiler or other cooking apparatus of an unusual size, and larger or fitted for being or capable of being made larger than requisite for the use of the crew of the vessel as a merchant vessel, or more than one boiler or other cooking apparatus of the ordinary size

Ninthly—An extraordinary quantity either of rice or of the flour of Brazil, manioc, or cassada, commonly called farina, of maize or of Indian corn, or of any other article of food whatever, beyond what might probably be requisite for the use of the crew, such rice, flour, maize, Indian corn, or other article of food not being entered on the manifest as part of the cargo for trade

Tenthly—A quantity of mats or matting larger than is necessary for the use of the crew of the vessel as a merchant vessel

Eleventhly—Any other equipment, article, or thing, which is declared by any existing slave trade treaty to be *prima facie* evidence of a vessel being engaged in the slave trade

THE EAST INDIA LOAN ACT, 1874¹

(37 & 38 Vict, c. 3.)

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the service of the Government of India

[30th March, 1874]

[*Preamble and enacting words*—Rep (U K) 56 & 57 Vict, c 54 (S L R)]

1. It shall be lawful for the Secretary of State in Council of India, at any

¹This Act may be cited, with eighteen others, as the East India Loans Acts, 1859 to 1893—see the Short Titles Act, 1896 (59 & 60 Vict, c 14), *post*

time or times before the thirtieth day of April one thousand eight hundred and seventy-nine, or, if Parliament be then sitting, before the end of the then Session of Parliament, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole ten millions of pounds sterling, and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others

State in Council of India to raise any sum not exceeding 10,000,000/

2. ALL bonds issued under the authority of this Act may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State for India, or one of his under-secretaries, or his assistant under-secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest as the said Secretary of State in Council may think fit

Bonds may be issued under the hands of two members of the Council, and countersigned by the Secretary of State

3 ALL debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council

Debentures may be issued

4. ALL debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively, and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein, and the principal moneys and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England

As to payment of principal and interest on debentures

5 ALL or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable by the delivery of such debentures, and the coupons for interest annexed to any debenture issued under the authority of this Act shall also pass by delivery

Debentures transferable by delivery

Coupons by delivery

6 ANY capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate per centum per annum, as the Secretary of State in Council may think fit, and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council, and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock, and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities

Capital stock and annuities may be created and issued

7. IN case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries

Transfer books of such capital stock and annuities to be kept.

shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses, and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her or their acceptance thereof, and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law, and no stamp duties whatsoever shall be charged on the said transfers or any of them

Annuities
deemed per-
sonal estate

8 ALL annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, not be liable to any foreign attachment by the custom of London or otherwise

The whole
amount
charged on
revenues of
India not to
exceed
10,000,000/

9. THE whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed ten millions, and no money shall be raised or secured under the authority of this Act after the said thirtieth day of April one thousand eight hundred and seventy-nine, or, if Parliament be then sitting, after the end of the then session of Parliament, save for or upon the repayment of principal moneys previously secured under this Act as hereinafter provided

Power to
raise money
for payment
of principal
money

10 UPON or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid

Securities,
etc., to be
charged on
revenues of
India

11. ALL bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories

Provisions as
to composi-
tion for
stamp duties
on India
bonds
extended to
bonds and
debentures
under this
Act

12. THE provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto,

13. All provisions now in force in any wise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority

Forgery of debentures to be punishable as forgery of East India bonds

14. [Rep as to U K, 46 & 47 Vict, c 39 (S L R) Omitted as being obsolete]

15 THE Secretary of State in Council shall include in the account to be laid before both Houses of Parliament, pursuant to the fifty-third section of the Act of the twenty-first and twenty-second Victoria, chapter one hundred and six, within the first fourteen days during which Parliament may be sitting next after the first day of May in every year, accounts of all stocks, loans debts, and liabilities chargeable on the revenues of India, at home and abroad, at the commencement and close of the year to which such account shall relate, the loans, debts, and liabilities raised or incurred within that year and the amounts paid off or discharged during that year, * * * 1

Accounts of all loans and liabilities to be included in account annually laid before Parliament

16 THIS Act shall not prejudice or affect any power of raising or borrowing money vested in said Secretary of State in Council at the time of passing thereof

Saving powers of the Secretary of State in Council Stock created hereunder to be deemed East India stock

17 ANY capital stock created under this Act shall be deemed to be East India stock, within the Act twenty-second and twenty-third Victoria, chapter thirty-five, section thirty-two, unless and until Parliament shall otherwise provide, and any capital stock created under this Act shall be deemed to be and shall mean India stock within the Act of the twenty-sixth and twenty-seventh Victoria, chapter seventy-three, anything in the said last-mentioned Act to the contrary notwithstanding

18. [Rep as to U K by 46 & 47 Vict, c 39 (S L R) Omitted as being spent]

THE EAST INDIA ANNUITY FUNDS ACT, 1874

(37 & 38 Vict., c. 12.)

An Act to make provision for the transfer of the Assets and Liabilities of the Bengal and Madras Civil Service Annuity Funds, and the Annuity Branch of the Bombay Civil Fund, to the Secretary of State for India in Council

[8th June, 1874]

[Preamble and enacting words—Rep (U K) 56 & 57 Vict, c 54 (S L R)]

1 [Rep as to U K 56 & 57 Vict, c 54 (S L R), No 2 Omitted as being obsolete]

¹ The remainder of this section has been repealed as to U K. by 46 & 47 Vict., c 39 [(S L R)], and is omitted as being spent

Annuities
charged on
said funds
to be payable
from reve-
nues of India.

2 * * * *¹ All existing liabilities of the said funds shall be deemed to be liabilities of the revenues of India, and all such liabilities may be enforced against the Secretary of State for India in Council in like manner as they might have been enforced against the trustees of the said Funds if this Act had not been passed, and every civil servant who shall at the date of such notification be an incumbent of an annuity from any of the said Civil Annuity Funds, or from any earlier fund the assets and liabilities of which shall have been transferred as aforesaid, shall be entitled to receive from time to time the amount of such annuity from the revenues of India, and every covenanted civil servant who shall be a subscriber to any of the said Civil Annuity Funds at or after the date of such notification shall be entitled on retirement to the benefits granted by the despatch of the Secretary of State in Council to the Government of India, dated the tenth of February, one thousand eight hundred and seventy-one, namely,

If he shall have completed twenty-five years' service and twenty-one years' residence in India a full annuity of one thousand pounds payable in England, or Company's rupees ten thousand six hundred and sixty-six ten annas and eight pies payable in Bengal, or Company's rupees ten thousand six hundred and fifty payable in Madras or Bombay

And if he shall be compelled to resign the service on account of ill health clearly proved by medical certificate,

if under five years' service, a grant of five hundred pounds,

if of five years' service and under six, an invalid annuity of one hundred and fifty pounds,

if of six years' service and under seven, an invalid annuity of one hundred and seventy pounds,

and so on, an increase of twenty pounds being made to the annuity for each year's service, the highest invalid annuity being four hundred and fifty pounds for a service of twenty years

Nothing to
prejudice
subscribers'
claims

3. PROVIDED, that nothing in this Act contained shall prejudice any claim which may be made by any subscriber to the said Civil Service Annuity Funds or by the representatives of any such subscriber, upon the funds so transferred, and in case any question shall arise between any such subscriber or the representatives of any deceased subscriber on the one hand, and the Secretary of State for India in Council on the other, as to any liability or alleged liability of the said funds, such question shall be determined by the Court of Appeal appointed by the Judicature Act, 1873, in such manner as may be provided by any general orders, or as the said Court may, on special application, think fit to prescribe, anything in the Statute of Limitations to the contrary notwithstanding

¹ Words repealed (U. K.) by 56 & 57 Vict., c. 54 (S. L. R.) have been omitted.

37 & 38 Vict, c 27] *The Courts (Colonial) Jurisdiction Act, 1874* 501

37 & 38 Vict, c. 61] *The Royal (late Indian) Ordnance Corps Act, 1874*

THE COURTS (COLONIAL) JURISDICTION ACT, 1874

(37 & 38 Vict, c 27)

An Act to regulate the Sentences imposed by Colonial Courts where jurisdiction to try is conferred by Imperial Acts

[30th June, 1874]

[*Preamble and enacting words Rep (U K) 56 & 57 Vict, c 54 (S L R)*]

1. THIS Act may be cited for all purposes as the Courts (Colonial) Jurisdiction Act, 1874 Short title

2 FOR the purposes of this Act,—

the term “colony ” shall not include any places within the United Kingdom, the Isle of Man, or the Channel Islands, but shall include such territories as may for the time being be vested in Her Majesty by virtue of an Act of Parliament for the government of India, and any plantation, territory, or settlement situate elsewhere within Her Majesty’s dominions, and subject to the same local government and for the purposes of this Act all plantations, territories, and settlements under a central legislature shall be deemed to be one colony under the same local government

Definition
of term
“colony ”

3. WHEN, by virtue of any Act of Parliament now or hereafter to be passed, a person is tried in a court of any colony for any crime or offence committed upon the high seas or elsewhere out of the territorial limits of such colony and of the local jurisdiction of such court, or if committed within such local jurisdiction made punishable by that Act, such person shall, upon conviction, be liable to such punishment as might have been inflicted upon him if the crime or offence had been committed within the limits of such colony and of the local jurisdiction of the court, and to no other, anything in any Act to the contrary notwithstanding Provided always, that if the crime or offence is a crime or offence not punishable by the law of the colony in which the trial takes place, the person shall, on conviction, be liable to such punishment (other than capital punishment) as shall seem to the court most nearly to correspond to the punishment to which such person would have been liable in case such crime or offence had been tried in England

At trials in any colonial courts by virtue of Imperial Acts, courts empowered to pass sentences as if crimes had been committed in the colony

THE ROYAL (LATE INDIAN) ORDNANCE CORPS ACT, 1874

(73 & 38 Vict, c. 61.)

An Act for granting Compensation to Officers of the Royal (late Indian) Ordnance Corps

[7th August, 1874]

[*Preamble and enacting words —Rep (U K) 56 & 57 Vict, c 54 (S L R)*]

1. THIS Act may be cited for all purposes as “ The Royal (late Indian) Ordnance Corps Act, 1874.” Short title.

Compensation to officers of the Royal (late Indian) Ordnance Corps

2. SUBJECT as hereinafter mentioned, the army purchase commissioners, acting under the Regulation of the Forces Act, 1871, in this Act referred to as the commissioners, shall have power to consider the claims on retirement of any officers, who on the first day of November, one thousand eight hundred and seventy-one, were serving in any one of the corps following, that is to say,

The Royal (late Bengal) Artillery,
The Royal (late Bengal) Engineers,
The Royal (late Madras) Artillery,
The Royal (late Madras) Engineers,
The Royal (late Bombay) Artillery, or
The Royal (late Bombay) Engineers,

and to grant to any of the said officers who have retired since the said first day of November, or who may hereafter be permitted to retire, a compensation equal to the sums they would have received according to the custom, if any, of their corps, as or in the nature of a bonus for such retirement had they retired from their regiment on the said day, after deducting such sums (if any) as they may have received from the Indian revenues in respect or on account of such bonus

3 to 5. [*Rep as to U K 46 & 47 Vict, c 39 (S L R) Omitted as being obsolete*]

Powers of commissioners applicable for purposes of this Act

6 ALL powers vested in the commissioners by the said Regulation of the Forces Act, 1871, for or in relation to their proceedings under that Act, shall apply to their proceedings under this Act, and may be exercised by them for ascertaining any matter or fact, or doing any act required to be ascertained or done by them for the purposes of this Act, in the same manner in all respects as if their proceedings under this Act were proceedings under the said Regulation of the Forces Act, 1871

Provision for expenses of compensating officers

7 ALL expenses incurred by the commissioners in carrying into effect this Act shall be defrayed out of moneys provided by Parliament

THE COLONIAL CLERGY ACT, 1874

(37 & 38 Vict, c 77)

An Act respecting Colonial and certain other Clergy

[7th August, 1874]

[*Preamble and enacting words —Rep (U K) 56 & 57 Vict, c 54 (S L R)*]

Short title

1. THIS Act may be cited as the Colonial Clergy Act, 1874

2 *Repeal of enactments —Rep 46 & 47 Vict, c 39 (S L R)*

Colonial and certain other clergy not to

3 EXCEPT as hereinafter mentioned, no person who has been or shall be ordained priest or deacon, as the case may be, by any bishop other than a

bishop of a diocese, in one of the churches aforesaid,¹ shall, unless he shall hold office with-
 or have previously held preferment or a curacy in England, officiate as such out permis-
 priest or deacon in any church or chapel in England, without written permis- sion from the
 sion from the archbishop of the province in which he proposes to officiate, and archbishop,
 without also making and subscribing so much of the declaration contained
 in "The Clerical Subscription Act, 1865", as follows, that is to say,

"I assent to the thirty-nine articles of religion, and to the Book of Com-
 mon Prayer, and of the ordering of bishops, priests, and deacons I believe the
 doctrine of the Church of England as therein set forth to be agreeable to the
 Word of God, and in public prayer and administration of the sacraments, I,
 whilst ministering in England, will use the form in the said book prescribed,
 and none other, except so far as shall be ordered by lawful authority"

4. EXCEPT as hereinafter mentioned, no person who has been or shall be nor to hold
 ordained priest or deacon, as the case may be, by any bishop other than a preferment
 bishop of a diocese in one of the churches aforesaid,¹ shall be entitled as such nor act as
 priest or deacon to be admitted or instituted to any benefice or other ecclesias- curate with-
 tical preferment in England, or to act as curate therein, without the previous out consent
 consent in writing of the bishop of the diocese in which such preferment or of bishop
 curacy may be situate

5. ANY person holding ecclesiastical preferment, or acting as curate in As to license
 any diocese in England under the provisions of this Act, may, with the written
 consent of the bishop of such diocese, request the archbishop of the province to
 give him a license in writing under his hand and seal in the following form,
 that is to say,

"To the Rev *A B*,

"We, *C*, by Divine Providence archbishop or *D*, do hereby give you the
 said *A B* authority to exercise your office of priest (or deacon) according to
 the provisions of an Act of the thirty-seventh and thirty-eighth years of Her
 present Majesty, intituled 'An Act respecting Colonial and certain other
 Clergy'

"Given under our hand and seal on the

day of
 "*C (L S) D*"

And if the archbishop shall think fit to issue such license, the same shall be
 registered in the registry of the province, and the person receiving the license
 shall thenceforth possess all such rights and advantages, and be subject to all
 such duties and liabilities as he would have possessed and been subject to if
 he had been ordained by the bishop of a diocese in England Provided that no
 such license shall be issued to any person who has not held ecclesiastical pre-
 ferment or acted as curate for a period or periods exceeding in the aggregate
 two years

6. ALL appointments, admissions, institutions, or inductions to ecclesias- Appoint
 tical preferment in England, and all appointments to act as curate therein, ments, etc.,
 contrary
 to Act void

¹ That is the Church of England, the Church of Ireland and the United Church of England
 and Ireland (the union was dissolved by 32 & 33 Vict, c. 42) referred to in the preamble

which shall hereafter be made contrary to the provisions of this Act, shall be null and void

Penalty for officiating contrary to Act.

7. IF any person shall officiate as priest or deacon in any church or chapel in England contrary to the provisions of this Act, or if any bishop not being bishop of a diocese in England shall perform episcopal functions in any such church or chapel without the consent in writing of the bishop of the diocese in which such church or chapel is situate, he shall for every such offence forfeit and pay the sum of ten pounds to ¹ ⁺ ¹ ¹ Queen Anne's Bounty, to be recovered by action brought within six months after the commission of such offence by the treasurer of the said Bounty in one of Her Majesty's Superior Courts of Common Law, and the incumbent or curate of any church or chapel who shall knowingly allow such offence to be committed therein shall be subject to a like penalty, to be recovered in the same manner

Persons ordained under 15 & 16 Vict, c. 52, exempt.

8 ANY person ordained a priest or deacon in pursuance of such request and commission as are mentioned in an Act of the fifteenth and sixteenth years of Her present Majesty, chapter fifty-two, shall, for the purposes of this Act, be deemed to have been so ordained by the bishop of a diocese in England, and it shall not be necessary that the bishop to whom such commission shall have been given should have exercised his office within Her Majesty's dominions, or by virtue of Her Majesty's Royal Letters Patent, provided that such bishop be a bishop in communion with the Church of England, and such commission shall not become void by the death of the grantor until after seven days. Provided always, that any such act of ordination by any such bishop as aforesaid shall be subject to the same laws and provisions as to the titles and as to the oaths and subscriptions of the persons to be ordained, and as to the registration of such act, as if it had been performed by the bishop of the diocese, and that the letters of orders of any person so ordained by any such bishop shall be issued in the name of, and be subscribed with the signature of such bishop as commissary of the bishop of the diocese, and shall be sealed with the seal of the bishop of such diocese

Persons ordained under 24 Geo 3, sess 2, c 25, or 59 Geo 3, c. 60, s. 1, subject to Act. ^a

9 ANY person ordained a deacon or priest under the provisions of an Act of the second session of the twenty-fourth year of King George the Third, chapter thirty-five, or under the first section of an Act of the fifty-ninth year of King George the Third, chapter sixty, shall be subject to the provisions contained in this Act

10. [*Rep 46 & 47 Vict, c 39 (S L R)*]

Saving of 27 & 28 Vict, c. 94.

11. NOTHING in this Act contained shall alter or affect any of the provisions of an Act of the twenty-seventh and twenty-eighth years of Her present Majesty, chapter ninety-four, intituled "An Act to remove disabilities affecting the bishops and clergy of the Protestant Episcopal Church in Scotland"

Archbishops may dispense with oath of

12. It shall be lawful for the archbishop of Canterbury or the archbishop of York for the time being, in consecrating any person to the office of bishop

¹The words "the governors of" were repealed (U K.) by 61 & 62 Vict, c. 22 (S L R)

for the purpose of exercising episcopal functions elsewhere than in England, due obedience to dispense, if he think fit, with the oath of due obedience to the archbishop.

13. NOTHING contained in an Act of the fifty-third year of King George the Third, chapter one hundred and fifty-five, or in an Act of the third and fourth years of King William the Fourth, chapter eighty-five, or in any letters patent issued as mentioned in the said Acts, or either of them, shall prevent any person who shall be or shall have been bishop of any diocese in India from performing episcopal functions, not extending to the exercise of jurisdiction, in any diocese or reputed diocese at the request of the bishop thereof

14. IN this Act the word "bishop" shall, when not inconsistent with the context, include archbishop, the words "bishop" and "archbishop," in the matters of "permission" and "consent," and of "consent and license" shall include the lawful commissary of a bishop or an archbishop, the word "England" shall include the Isle of Man and the Channel Islands, and the term "church or chapel" shall mean church or chapel subject to the ecclesiastical law of the Church of England

SCHEDULES

[*Rep 46 & 47 Vict , c 39 (S L R)*]

THE INDIAN COUNCILS ACT, 1874

(37 & 38 Vict , c. 91.)

An Act to amend the law relating to the Council of the Governor General of India.

[*7th August, 1874*]

[*Preamble and enacting words —Rep (U K) 56 & 57 Vict , c 54 (S L R)*]

1. IT shall be lawful for Her Majesty, if she shall see fit, to increase the number of the ordinary members of the Council of the Governor General of India to six, by appointing any person, from time to time, by warrant under Her Royal Sign Manual, to be an ordinary member of the said Council in addition to the ordinary members thereof appointed under section three of "The Indian Councils Act, 1861," and under section eight of the Act of the thirty-second and thirty-third years of Her present Majesty, chapter ninety-seven The law for the time being in force with reference to ordinary members of the Council of the Governor General of India shall apply to the person so appointed by Her Majesty under this Act,¹ * * * *

Number of
ordinary
members of
Governor
General's
Council may
be increased.
24 & 25
Vict , c 67,
32 & 33
Vict , c 97.

¹ The words "who shall be called the member of Council for public works purposes" were repealed by 4 Edw 7, c 26

Number of
members of
Council may
be subse-
quently
diminished

2 WHENEVER a member of Council¹ shall have been appointed under the first section of this Act, it shall be lawful of Her Majesty, if she shall see fit, to diminish, from time to time, the number of the ordinary members of the Council of the Governor General of India to five, by abstaining so long as she shall deem proper from filling up any vacancy or vacancies occurring in the offices of the ordinary members of the said Council appointed under section three of "The Indian Councils Act, 1861," and under section eight of the Act of the thirty-second and thirty-third years of Her present Majesty, chapter ninety-seven, not being a vacancy in the office of the ordinary member of Council required by law to be a barrister or a member of the Faculty of Advocates in Scotland, and whenever the Secretary of State for India shall have informed the Governor General of India that it is not the intention of Her Majesty to fill up any vacancy, no temporary appointment shall be made to such vacancy under section twenty-seven of "The Indian Councils Act, 1861," and if any such temporary appointment shall have been made previously to the receipt of such information, the tenure of office of the person temporarily appointed shall cease and determine from the time of the receipt of such information by the Governor General

Not to affect
power of
Governor
General in
respect of his

3. NOTHING in this Act contained shall affect the provisions of section eight of "The Indian Councils Act, 1861," or the provisions of section five of the Act of the thirty-third year of Her Majesty, chapter three, or any power or authority vested by law in the Governor General of India in respect of his Council or of the members thereof

THE INTERNATIONAL COPYRIGHT ACT, 1875²

(38 & 39 Vict, c. 12.)

An Act to amend the Law relating to International Copyright

[13th May, 1875]

[*Preamble reciting 15¹ & 16, Vict, c 12, ss 4, 5 and enacting words—Rep
 (U K) 56 & 57 Vict, c 54 (S L R)*]

Section 6 of
15 & 16
Vict, c 12,
not to apply
to dramatic
pieces in cer-
tain cases.

1. In any case in which, by virtue of the enactments hereinbefore recited, any Order in Council has been or may hereafter be made for the purpose of extending protection to the translations of dramatic pieces first publicly represented in any foreign country, it shall be lawful for Her Majesty by Order in Council to direct that the sixth section of the said Act shall not apply to the dramatic pieces to which protection is so extended, and thereupon the said recited Act shall take effect with respect to such dramatic pieces and to the translations thereof as if the said sixth section of the said Act was hereby repealed

¹ The words "for public works purposes" were repealed by 4 Edw 7, c 26

² This Act may be cited, with four others, as the International Copyright Acts—see the Short Titles Act, 1896 (59 & 60 Vict, c 14), *post*. It is repealed by the Copyright Act 1911 (1 & 2 Geo 5, c 46) which will come into force in British India when proclaimed—see 1 & 2 Geo 5, c 46, ss. 25, 36, 37, *post*

39 & 40 Vict., c. 10] *The Royal Titles Act, 1876* 507
 39 & 40 Vict., c. 20.] *The Statutes Law Revision (Substituted
 Enactments) Act, 1876*

THE ROYAL TITLES ACT, 1876

(39 & 40 Vict c 10)

*An Act to enable Her most Gracious Majesty to make an addition to the Royal
 Style and Titles appertaining to the Imperial Crown of the United King-
 dom and its Dependencies*

[27th April, 1876]

39 & 40
 Geo 3, c 67,
 A. D 1800

WHEREAS by the Union with Ireland Act, 1800, it was provided that after
 such union as aforesaid the royal style and titles appertaining to the imperial
 Crown of the United Kingdom and its Dependencies should be such as His
 Majesty by His Royal proclamation under the Great Seal of the United King-
 dom should be pleased to appoint

And whereas by virtue of the said Act and of a Royal proclamation under
 the Great Seal, dated the first day of January, one thousand eight hundred
 and one, the present style and titles of Her Majesty are " Victoria by the Grace
 of God of the United Kingdom of Great Britain and Ireland, Queen, Defender
 of the Faith "

21 & 22
 Vict., c 100

And whereas by the Government of India Act, 1858,¹ it was enacted that
 the government of India, theretofore vested in the East India Company in
 trust for Her Majesty, should become vested in Her Majesty and, that India
 should thenceforth be governed by and in the name of Her Majesty, and it is
 expedient that there should be a recognition of the transfer of Government so
 made by means of an addition to be made to the style and titles of Her
 Majesty .

1. It shall be lawful for Her most gracious Majesty with a view to such Addition to
 recognition as aforesaid of the transfer of the government of India, by Her style and
 Royal proclamation under the Great Seal of the United Kingdom, to make titles of
 such addition to the style and titles at present appertaining to the imperial Crown.
 Crown of the United Kingdom and its Dependencies as to Her Majesty may
 seem meet

THE STATUTE LAW REVISION (SUBSTITUTED ENACTMENTS) ACT, 1876.

(39 & 40 Vict , c. 20)

*An Act to facilitate the Revision of the Statute Law by substituting in certain
 Acts, incorporating enactments which have been otherwise repealed
 reference to recent Enactments still in force*

[21th June 1876]

* * * * *
 2.2 * * * The penalty under section two of the Postage and
 ers Act, 1849, shall be recovered, paid, and applied in the same manner as in the

¹ Printed, ante.

² The first paragraph was repealed (U. F., 21st & 22nd June 1876)

mentioned in 12 & 13 Vict, c 25 penalty for harbouring or secreting any seaman deserting from a British ship is for the time being recoverable, payable, and applicable

* * * * *

THE CUSTOMS CONSOLIDATION ACT, 1876

(39 & 40 Vict., c. 36)

[24th July, 1876]

[Preamble]

* * * * *

As to the Channel Islands and other possessions

Powers of Commissioners as to colonies extended to governors, etc

149. The powers and authorities vested in the Commissioners of Customs with regard to any act or thing relating to the Customs, or to trade or navigation in any of the British possessions abroad, shall continue to be vested in the governor, lieutenant-governor, or other person administering the government in any such possession, and every act required by any law, to be done by or with any particular officer or at any particular place, if done by or with any such officer or at any place appointed or nominated by such governor, lieutenant-governor or other person so administering such government, shall be deemed to have been done by or with such particular officer or at such particular place, as the case may be, and as required by law, and all commissions, deputations and appointments granted to any officer of Customs in force at the commencement of this Act shall have the same force and effect to all intents and purposes as if the same had been granted or made in the first instance by such governor, lieutenant-governor or person so administering the government of any such possession, and all bonds or other securities which shall have been given by or for any such officers and their respective sureties for good conduct or otherwise shall remain in force and shall and may be enforced and put in suit at the instance of or by directions of any such governor, lieutenant-governor or person administering the government of any such possession

+ * * * *

Customs Acts to extend to British possessions abroad, except where otherwise provided for

151. The Customs Acts shall extend to and be of full force and effect in the several British possessions abroad, except where otherwise expressly provided for by the said Acts, or limited by express reference to the United Kingdom or the Channel Islands, and except also as to any such possession as shall by local Act or ordinance have provided, or may hereafter, with the sanction and approbation of Her Majesty, make entire provision for the management and regulation of the Customs of any such possession, or make in like manner express provisions in lieu or variation of any of the clauses of the said Act for the purposes of such possession

¹ 152. Any books wherein the copyright shall be subsisting first composed or written or printed in the United Kingdom, and printed or reprinted in any other country, shall be and are hereby absolutely prohibited to be imported into the British possessions abroad. ^{Foreign reprints of books under copyright prohibited.} Provided always, that no such books shall be prohibited to be imported as aforesaid unless the proprietor of such copyright, or his agent, shall have given notice in writing to the Commissioners of Customs that such copyright subsists, and in such notice shall have stated when the copyright will expire, and the said Commissioners shall cause to be made and transmitted to the several ports in the British possessions abroad, from time to time to be publicly exposed there, lists of books respecting which such notice shall have been duly given, and all books imported contrary thereto shall be forfeited, but nothing herein contained shall be taken to prevent Her Majesty from exercising the powers vested in her by the Colonial Copy-

10 & 11 Vict., right Act, 1847, to suspend in certain cases such prohibitions
c 95

153. If any articles of foreign manufacture, and any packages of such articles, bearing any names, brands, or marks being or purporting to be the names, brands or marks of manufacturers resident in the United Kingdom, shall be imported into any of the British possessions abroad, the same shall be forfeited. ^{Foreign manufacture with British marks}

* * * * *

161. All laws bye-laws usages or customs at this time, or which hereafter shall be in practice or endeavoured or pretended to be in force or practice in any of the British possessions which are in anywise contrary to the Customs Acts, are and shall be null and void. ^{in force or practice in any of the British possessions}

* * * * *

ment with, any such officer or person as aforesaid to induce him in any way to neglect his duty, or to do, conceal or connive at any act whereby any of the provisions of any Act of Parliament relating to the Customs may be evaded, shall forfeit the sum of two hundred pounds

THE SLAVE TRADE ACT, 1876

(39 & 40 Vict, c. 46.)

An Act for more effectually punishing Offences against the Laws relating to the Slave Trade

[11th August, 1876]

[The first two paragraphs of the preamble recite 32 & 33 Vict, c 98, 28 & 29 Vict, c 17 Rep (U K) 57 & 58 Vict, c 56 (S L R)]

AND whereas the several princes and states in India in alliance with Her Majesty have no connexions, engagements, or communications with foreign powers, and the subjects of such princes and states are, when residing or being in the place hereinafter referred to, entitled to the protection of the British Government, and receive such protection equally with the subjects of Her Majesty

Certain
offenders on
the seas
visited as
pirates
though
offences com-
mitted in
India

1 If any person, being a subject of Her Majesty or of any prince or state in India in alliance with Her Majesty, shall, upon the high seas or in any part of Asia or Africa which Her Majesty may from time to time think fit to specify by any Order in Council in this behalf, commit any of the offences defined in sections 367, 370, and 371 (in the schedule to this Act respectively recited) of Act XLV of 1860, passed by the Governor General of India in Council and called "The Indian Penal Code", or abet within the meaning of the fifth chapter of the said Penal Code the commission of any such offence, such person shall be dealt with, in respect of such offence or abetment, as if the same had been committed in any place within British India in which he may be or may be found

Sec 1 may
be made to
apply to
future
amendments
of this Act

2 If the Governor General of India in Council shall, at a meeting for making laws and regulations, amend the provisions of the said sections 367, 370, and 371 of the said Penal Code, or any of them, or the said fifth chapter thereof so far as relates to the abetment of any of the offences forbidden by such sections, or make any further provisions for preventing or suppressing the making, buying, or selling of slaves or any of the offences comprised in the said three sections, the Secretary of State for India shall, unless Her Majesty has disallowed such amendment or further provision, lay a copy of the amending Act before each house of Parliament, and after the same shall have lain on the table of both Houses of Parliament for the space of forty days, it shall be lawful for Her Majesty, unless either House of Parliament shall present an address to Her Majesty to the contrary, to direct by Order in Council that

the provisions of the first section of this Act shall apply to the law so amended or enlarged, and the same shall be applicable accordingly

3 For the purpose of obtaining evidence of the commission of the offences made punishable by this Act or any Act of Parliament relating to slavery or the slave trade, every High Court in India shall have, as respects the persons in the first section of this Act referred to, and as respects any British colony, settlement, plantation, or territory, wherein any witness may be, the same powers as are conferred on the Court of Queen's Bench by the fourth section of an Act made and passed in the session of Parliament holden in the sixth and seventh years of Her Majesty's reign, chapter ninety-eight, with respect to such British colonies, settlements, plantations, and territories as are therein referred to Powers of High Court for purpose of obtaining evidence

And every High Court may, if it thinks fit, issue such commission as is mentioned in section 330 of Act X of 1872,¹ passed by the Governor General of India in Council, and called "The Code of Criminal Procedure," to any consular officer of Her Majesty in the parts of Asia or Africa specified in any Order of Her Majesty in Council under section 1 of this Act, or to any political officer or agent of the Governor General of India in Council or of any Indian Government in the said parts or in the dominions of any prince or state in India in alliance with Her Majesty, or to any magistrate in Her Majesty's Indian dominions

And the depositions taken by virtue of the said powers or under such commission shall be deemed by every court of original or appellate jurisdiction in India in any trial or proceeding under this Act or any Act of Parliament relating to slavery or the slave trade to be as good and competent evidence as if the witnesses deposing had been present and examined *vivâ voce*, had made oath or affirmation as required by law

4 [Rep 53 & 54 Vict c 37, s 18]

5 NOTHING in this Act shall be deemed to restrict the legislative power which the Governor General of India in Council possesses at meetings for the purposes of making laws and regulations Saving powers of Governor General.

6 [Rep 53 & 54 Vict, c 37, s 18]

SCHEDULE

S 367 of the Indian Penal Code — Whoever kidnaps or abducts any person, in order that such person may be subjected or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person; or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to a fine

¹ See now the Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Vol V

S. 370.—Whoever imports, exports, removes, buys, sells, or disposes of, any person as a slave, or accepts, receives, or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to a fine

S. 371 —Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to a fine

THE EAST INDIA LOAN ACT, 1877 ¹

(40 & 41 Vict, c 51.)

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India

[14th August, 1877]

[*Preamble Rep (U K) 57 & 58 Vict , c 56 (S L. R)*]

Power to the Secretary of State in Council of India to raise any sum not exceeding 7,000,000*£*.

1. It shall be lawful for the Secretary of State in Council of India, at any time or times ² * * * to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole five millions of pounds sterling, of which two millions five hundred thousand pounds sterling may be raised by the creation and issue of capital stock bearing interest, or annuities, bonds, debentures, or bills, or partly by one of such modes and partly by another or others and the whole or any portion of the remaining two millions five hundred thousand pounds sterling may be raised by the creation and issue of bonds, debentures, or bills, but not by the creation and issue of capital stock bearing interest, or of annuities

Bonds may be issued under the hands of two members of the Council and countersigned by Secretary of State
Debentures may be issued.

2 ALL bonds issued under the authority of this Act may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State for India, or one of his under-secretaries, or his assistant under-secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest as the said Secretary of State in Council may think fit

3 ALL debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as afore-said, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council

¹ This Act may be cited, with eighteen others, as the East India Loans Acts, 1859 to 1893—see the Short Titles Act, 1896 (59 & 60 Vict., c 14), *post*.

² The words “ after the passing of this Act ” were repealed (U K) by 57 & 58 Vict., c. 56 (S L. R)

4 ALL debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively, and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein, and the principal moneys and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England

As to pay-
ment of prin-
cipal and in-
terest on
debentures

5 ALL or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable by the delivery of such debentures, and the coupons for interest annexed to any debenture issued under the authority of this Act shall also pass by delivery

Debentures
transferable
by delivery
Coupons by
delivery

6 ALL bills issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council

Bills may be
issued

7 A BILL issued under the authority of this Act shall be a bill for the payment of the principal sum named therein at the date therein mentioned, so that the date be not more than twelve months from the date of the bill, and the principal sum secured by such bill shall be payable either at the treasury of the Secretary in Council in London or at the Bank of England Interest shall be payable in respect of such bill at such rate and in such manner as the Secretary of State in Council may determine

Description,
currency of,
and interest
on bills

8 ANY capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate per centum per annum, as the Secretary of State in Council may think fit, and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council, and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock, and such annuities may be determinable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities

Capital stock
and annuities
may be
created and
issued

9 IN case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses, and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof, and no other mode of assigning or transferring the said capital stock or the said

Transfer
books of such
capital stock
and annuities
to be kept.

annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law, and no stamp duties, whatsoever shall be charged on the said transfers or any of them

10 ALL annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of London, or otherwise

11 THE whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed five millions

12 UPON or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid, and the total amount raised under this section by the creation and issue of capital stock bearing interest or of annuities shall not at any one time exceed two millions five hundred thousand pounds sterling

13 ALL bonds, debentures, and bills, to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories

14 THE provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the compensation and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto

15 ALL provisions now in force in anywise relating to the offence of forging, or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture or bill issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority

16 [*Rep as to U K, 57 & 58 Vict, c 56 (S L R) Omitted as being obsolete*]

17 THIS Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof

Saving powers of the Secretary of State in Council Stock created hereunder to be deemed East India stock.

18 ANY capital stock created under this Act shall be deemed to be East India stock, within the Act twenty-second and twenty-third Victoria, chapter thirty-five, section thirty-two, unless and until Parliament shall otherwise provide, and any capital stock created under this Act shall be deemed to be and shall mean India stock within the Act of the twenty-sixth and twenty-seventh Victoria chapter seventy-three, anything in the said last-mentioned Act to the contrary notwithstanding

19 [*Rep as to U K, 16 & 17 Vict, c 39 (S L R)* Omitted as being spent]

THE DENTISTS ACT, 1878¹

(41 & 42 Vict, c 33)

An Act to amend the Law relating to Dental Practitioners

[22nd July, 1878.]

[*Preamble—Rep (U. K) 57 & 58 Vict, c 56 (S L R)*]

1 THIS Act may for all purposes be cited as the Dentists Act, 1878

Short title.

2 IN this Act "General Council" means the General Council of Medical Education and Registration of the United Kingdom, established under the Medical Act, 1858, and "Branch Council" means a branch of the said council

Interpretation

as constituted by the same Act

"General registrar" means the person appointed to be the registrar by the General Council, and "local registrar" means the registrar appointed by branch council under the Medical Act, 1858

"British possession" means any part of Her Majesty's dominions exclusive of the United Kingdom

"Medical authorities" means the bodies and universities who choose members of the General Council

Registration

3 * * * a person shall not be entitled to take or use the name or title of "dentist" (either alone or in combination with any other word or words), or of "dental practitioner," or any name, title, addition, or description implying that he is registered under this Act or that he is a person specially qualified to practise dentistry, unless he is registered under this Act

Penalty on unregistered persons using title of "dentist," etc

Any person who, not being registered under this Act, takes or uses any such name, title, addition, or description as aforesaid, shall be liable,

¹ Amended by 49 & 50 Vict, c 48, ss 23 and 26, *post*

^{2, 3} The words "from and after the first day of August, one thousand eight hundred and seventy nine" and "after the first day of August, one thousand eight hundred and seventy nine" were repealed (U K) by 57 & 58 Vict, c 56 (S L R)

on summary conviction, to a fine not exceeding twenty pounds, provided that nothing in this section shall apply to legally qualified medical practitioners

Provision as
to offence of
unregistered
person taking
name, etc.,
and as to
offence of
person taking
title he does
not possess

4 WITH respect to the offence of a person not registered under this Act taking or using any name, title, addition, or description as above in this Act mentioned, the following provisions shall have effect

(1) He shall not be guilty of an offence under this Act—

(a) If he shows that he is not ordinarily resident in the United Kingdom and that he holds a qualification which entitles him to practise dentistry or dental surgery in a British possession or foreign country, and that he did not represent himself to be registered under this Act, or,

(b) If he shows that he has been registered and continues to be entitled to be registered under this Act, but that his name has been erased on the ground only that he has ceased to practice

(2) ¹ * * * * *

If a person takes or uses the designation of any qualification or certificate in relation to dentistry or dental surgery which he does not possess, he shall be liable, on summary conviction¹ * * * to a fine not exceeding twenty pounds

A prosecution for any of the offences above in this Act mentioned * * *¹ may be instituted by the General Council, by a Branch Council, or by a medical authority, if such Council or authority think fit

Privileges of
registered
persons

5. A PERSON registered under this Act shall be entitled to practise dentistry and dental surgery in any part of Her Majesty's dominions, and * * *
* * ² a person shall not be entitled to recover any fee or charge, in any court, for the performance of any dental operation or for any dental attendance or advice, unless he is registered under this Act or is a legally qualified medical practitioner

Qualification
necessary
for registra-
tion.

6. ANY person who—

(a) is a licentiate in dental surgery or dentistry of any of the medical authorities, or,

(b) is entitled as hereinafter mentioned to be registered as a foreign or colonial dentist, or,

(c) is at the passing of this Act *bonâ fide* engaged in the practice of dentistry or dental surgery, either separately or in conjunction with the practice of medicine, surgery or pharmacy,

shall be entitled to be registered under this Act

Registration
of persons in
dentists'
register

7. WHERE a person entitled to be registered under this Act produces or sends to the general registrar the document conferring or evidencing his licence or qualification, with a statement of his name and address and the other particulars, if any, required for registration, and pays the registration fee, he shall be registered in the dentists' register

¹ Words repealed (U K.) by 57 & 58 Vict, c 56 (S L R.), have been omitted, see also 49 & 50 Vict, c 48, s. 26

² The words "from and after the first day of August, one thousand eight hundred and seventy nine" were repealed (U K.) by 57 & 58 Vict, c 56 (S L R.)

[¹ Provided that a person shall not be registered under this Act as having been at the passing thereof engaged in the practice of dentistry unless he produces or transmits to the registrar, before the first day of August, one thousand eight hundred and seventy-nine, information of his name and address, and a declaration signed by him in the form in the schedule to this Act or to the like effect, and the registrar may, if he sees fit, require the truth of such declaration to be affirmed in manner provided by the Act of the session held in the fifth and sixth years of the reign of King William the Fourth, chapter sixty-two, intituled "An Act to repeal an Act of the present session of Parliament, intituled 'An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits', and to make other provisions for the abolition of unnecessary oaths"]

A person resident in the United Kingdom shall not be disqualified for being registered under this Act by reason that he is not a British subject, and a British subject shall not be disqualified for being registered under this Act by reason of his being resident or engaged in practice beyond the limits of the United Kingdom

8. WHERE a person who either is not domiciled in the United Kingdom, or has practised for more than ten years elsewhere than in the United Kingdom, or in the case of persons practising in the United Kingdom at the time of the passing of this Act for not less than ten years either in the United Kingdom or elsewhere, shows that he holds some recognized certificate (as hereinafter defined) granted in a British possession, and that he is of good character, such person shall upon payment of the registration fee be entitled, without examination in the United Kingdom, to be registered as a colonial dentist in the dentists' register

9 WHERE a person who is not a British subject, or who has practised for more than ten years elsewhere than in the United Kingdom, or in the case of persons practising in the United Kingdom at the time of the passing of this Act for not less than ten years either in the United Kingdom or elsewhere, shows that he obtained some recognized certificate (as hereinafter defined) granted in a foreign country, and that he is of good character, and either continues to hold such certificate, or has not been deprived thereof for any cause which disqualifies him for being registered under this Act, such person shall upon payment of the registration fee be entitled, without examination in the United Kingdom, to be registered as a foreign dentist in the dentists' register

10. THE certificate granted in a British possession or in a foreign country, which is to be deemed such a recognized certificate as is required for the purposes of this Act, shall be such certificate, diploma, membership, degree, licence, letters, testimonial or other title, status or document as may be recognized for the time being by the General Council as entitling the holder there-

¹ Repealed (U K.) 57 & 58 Vict., c. 56 (S L R.)

of to practise dentistry or dental surgery in such possession or country, and as furnishing sufficient guarantees of the possession of the requisite knowledge and skill for the efficient practice of dentistry or dental surgery

If a person is refused registration as a colonial dentist or as a foreign dentist, the general registrar shall, if required by him, state in writing the reason for such refusal, and if such reason be that the certificate held or obtained by him is not such a recognized certificate as above defined, such person may appeal to the Privy Council, and the Privy Council, after hearing the General Council, may dismiss the appeal or may order the General Council to recognize such certificate, and such order shall be duly obeyed

Contents and
form of
dentists' ;
register, and
other pro-
visions as
to register

11 (1) A REGISTER shall be kept by the general registrar to be styled the dentists' register, and that register shall—

- (a) contain in one alphabetical list all United Kingdom dentists, that is to say, all persons who are registered under this Act as having been at the passing thereof engaged in the practice of dentistry or dental surgery, and all persons who are registered as licentiates in dentistry or dental surgery of any of the medical authorities of the United Kingdom, and
- (b) contain in a separate alphabetical list all such colonial dentists as are registered in pursuance of this Act, and
- (c) contain in a separate alphabetical list all such foreign dentists as are registered in pursuance of this Act

(2) The dentists' register shall contain the said lists made out alphabetically according to the surnames, and shall state the full names and addresses of the registered persons, the description and date of the qualifications in respect of which they are registered, and, subject to the provisions of this Act, shall contain such particulars and be in such form as the General Council from time to time direct

(3) The General Council shall cause a correct copy of the dentists' register to be from time to time and at least once a year printed under their direction, and published and sold, which copy shall be admissible in evidence

(4) The dentists' register shall be deemed to be in proper custody when in the custody of the general registrar, and shall be of such a public nature as to be admissible as evidence of all matters therein on its mere production from that custody

(5) Every local registrar shall keep such register and perform such duties in relation to registration under this Act as the General Council from time to time direct, and receive such remuneration out of the registration fees as the General Council assign him

Every registrar shall in all respects in the execution of his discretion and duty in relation to any register under this Act, conform to any orders made by the General Council under this Act, and to any special directions given by the General Council

(6) The General Council may, if they think fit, from time to time make and when made, revoke and vary, orders for the registration in (on payment of the fee fixed by the orders) and the removal from the dentists' register of any additional diplomas, memberships, degrees, licenses or letters held by a person registered therein, which appear to the Council to be granted after examination by any of the medical authorities in respect of a higher degree of knowledge than is required to obtain a certificate of fitness under this Act

12 (1) THE general registrar shall from time to time insert in the dentists' register any alteration which may come to his knowledge in the name or address of any person registered Correction of dentists' register

(2) The general registrar shall erase from the dentists' register the name of every deceased person

(3) The general registrar may erase from the dentists' register the name of a person who has ceased to practise (but not save as hereinafter provided) without the consent of that person, and the general registrar may send by post to a person registered in the dentists' register a notice inquiring whether or not he has ceased to practise, or has changed his residence, and if the general registrar does not, within three months after sending the notice, receive any answer thereto from the said person, he may, within fourteen days after the expiration of the three months, send him by post in a registered letter another notice, referring to the first notice, and stating that no answer thereto has been received by the registrar, and if the general registrar either before the second notice is sent receives the first notice back from the dead letter office of the Postmaster General, or receives the second notice back from that office, or does not within three months after sending the second notice receive any answer thereto from the said person, that person shall, for the purpose of the present section, be deemed to have ceased to practise, and his name may be erased accordingly

(4) In the execution of his duties the general registrar shall act on such evidence as in each case appears sufficient

13. THE General Council shall cause to be erased from the dentists' register any entry which has been incorrectly or fraudulently made Erasing from dentists' register

Where a person registered in the dentists' register has, either before or after the passing of this Act, and either before or after he is so registered, been convicted either in Her Majesty's dominions or elsewhere of an offence which, if committed in England, would be a felony or misdemeanor, or been guilty of any infamous or disgraceful conduct in a professional respect, that person shall be liable to have his name erased from the register name of practitioner convicted of crime of guilty of disgraceful conduct.

The General Council may, and upon the application of any of the medical authorities shall, cause inquiry to be made into the case of a person alleged to be liable to have his name erased under this section, and, on proof of such conviction or of such infamous or disgraceful conduct, shall cause the name of such person to be erased from the register

Provided that the name of a person shall not be erased under this section on account of his adopting or refraining from adopting the practice of any

particular theory of dentistry or dental surgery, nor on account of a conviction for a political offence out of Her Majesty's dominions, nor on account of a conviction for an offence which, though within the provisions of this section, does not, either from the trivial nature of the offence or from the circumstances under which it was committed, disqualify a person for practising dentistry. Any name erased from the register in pursuance of this section shall also be erased from the list of licentiates in dental surgery or dentistry of the medical authority of which such person is a licentiate

Restoration
of name to
dentists'
register

14. WHERE the General Council direct the erasure from the dentists' register of the name of any person, or of any other entry, the name of that person, or that entry, shall not be again entered in the register, except by direction of the General Council, or by order of a court of competent jurisdiction

If the General Council think fit in any case, they may direct the general registrar to restore to the dentists' register any name or entry erased therefrom, either without fee or on payment of such fee, not exceeding the registration fee, as the General Council from time to time fix, and the registrar shall restore the same accordingly.

The name of any person erased from the dentists' register at the request of such person or with his consent shall, unless it might, if not so erased, have been erased by order of the General Council, be restored to the register on his application, on payment of such fee not exceeding the registration fee as the General Council from time to time fix

Where the name of a person restored to the register in pursuance of this section has been erased from the list of licentiates in dental surgery or dentistry of any medical authority, that name shall be restored to such list of licentiates

Committee
of General
Council for
purpose of
erasure from
and restora-
tion to the
register

15. THE General Council shall, for the purpose of exercising in any case the powers of erasing from and of restoring to the dentists' register the name of a person or an entry, ascertain the facts of such case by a committee of their own body, not exceeding five in number, of whom the quorum shall be not less than three, and a report of the Committee shall be conclusive as to the facts for the purpose of the exercise of the said powers by the General Council

The General Council shall from time to time appoint and shall always maintain a committee for the purposes of this section, and subject to the provisions of this section may from time to time determine the constitution, and the number and tenure of office of the members, of the committee

The committee from time to time shall meet for the despatch of business, and subject to the provisions of this section, and of any regulations from time to time made by the General Council, may regulate the summoning notice, place, management, and adjournment of such meetings, the appointment of a chairman, the mode of deciding questions, and generally the transaction and management of business including the quorum, and if there is a quorum the committee may act notwithstanding any vacancy in their body. In the case of any vacancy the committee may appoint a member of the General Council to fill the vacancy until the next meeting of that Council.

A committee under this section may, for the purpose of the execution of their duties under this Act, employ at the expense of the Council such legal or other assessor or assistants as the committee think necessary or proper

16. THERE shall be payable in respect of the registration of any person who, ^{Fees}
 * 1 1 1 applies to be registered under this Act, * 1 2 1 2 a fee not exceeding five pounds

17. SUBJECT to the provisions of this Act, the General Council may from ^{Orders of}
 time to time make, alter, and revoke such orders and regulations as they see ^{General}
 fit for regulating the general register and the local registers, and the practice ^{Council}
 of registration under this Act, and the fees to be paid in respect thereof

Examinations

18. NOTWITHSTANDING anything in any Act of Parliament, charter, or ^{Examina-}
 other document, it shall be lawful for any of the medical authorities (herein- ^{tions in}
 after referred to as colleges or bodies) who have power for the time being to ^{dental}
 grant surgical degrees, from time to time to hold examinations for the purpose ^{surgery}
 of testing the fitness of persons to practise dentistry or dental surgery who
 may be desirous of being so examined, and to grant certificates of such fitness,
 and any person who obtains such a certificate from any of those colleges or
 bodies shall be a licentiate in dental surgery or dentistry of such college or
 body, and his name shall be entered on a list of such licentiates to be kept by
 such college or body

Each of the said colleges or bodies shall admit to the examinations held
 by them respectively under this section any person desirous of being examined
 who has attained the age of twenty-one years, and has complied with the
 regulations in force (if any) as to education of such college or body

19. SUBJECT to the provisions hereinafter contained with reference to a ^{Board of}
 medical board, the council or other the governing body of the Royal College of ^{examiners.}
 Surgeons of Edinburgh, and of the Faculty of Physicians and Surgeons of
 Glasgow, and of the Royal College of Surgeons in Ireland, and of any univer-
 sity in the United Kingdom respectively, may from time to time appoint a
 board of examiners for the purpose of conducting the examinations and grant-
 ing the certificates hereinbefore mentioned

Each of such board shall be called the Board of Examiners in Dental Sur-
 gery or Dentistry, and shall consist of not less than six members, one-half
 of whom at least shall be persons registered under this Act, and such regis-
 tration shall (notwithstanding anything in any Act of Parliament, charter, or
 other document) be deemed the only qualification necessary for the member-
 ship of such board

The persons appointed by each such council or other governing body shall
 continue in office for such period, and shall conduct the examinations in such

^{1, 2} The words " before the first day of January, one thousand eight hundred and seventy nine " and " a fee not exceeding two pounds , and in respect of the registration of any person who after that day applies to be registered " were repealed (U. K.) by 57 & 58 Vict., c. 56 (S. L. R.)

manner, and shall grant certificates in such form, as such council or other governing body may from time to time, by byelaws or regulations, respectively direct

A casual vacancy in any such board of examiners may be filled by the council or other governing body which appointed such board, but the person so appointed shall be qualified as the person in whose stead he is appointed was qualified, and shall hold office for such time only as the person in whose stead he is appointed would have held office

Fees for examination

20. SUCH reasonable fees shall be paid for the certificates to be granted under this Act by the board of examiners of the Royal College of Surgeons of Edinburgh, the Faculty of Physicians and Surgeons of Glasgow, and of the Royal College of Surgeons in Ireland, and of any such university as aforesaid respectively, as the council or other the governing body of each of those colleges or bodies may from time to time, by byelaws or regulations, respectively direct

Continuance of examination in dental surgery by Royal College of Surgeons of England.

21. THE Royal College of Surgeons of England shall continue to hold examinations and to appoint a board of examiners in dentistry or dental surgery for the purpose of testing the fitness of persons to practise dentistry or dental surgery who may be desirous of being so examined, and to grant certificates of such fitness, subject and according to the provisions of their charter dated the eighth day of September, one thousand eight hundred and fifty-nine, and the byelaws made, or to be made, in pursuance thereof, and any person who obtains such a certificate shall be a licentiate in dental surgery of the said college, and his name shall be entered on a list of such licentiates to be kept by the said college

General Council may require information as to examinations.]

22. EVERY medical authority shall from time to time, when required by the General Council, furnish such Council with such information as such Council may require as to the course of study and examinations to be gone through in order to obtain such certificates as are in this Act mentioned, and generally as to the requisites for obtaining such certificates, and any member or members of the General Council, or any person or persons deputed for this purpose by such Council, or by any branch council, may attend and be present at any such examinations

Representation to Privy Council of defects in examination

23. WHERE it appears to the General Council that the course of study and examinations to be gone through in order to obtain such certificate as is in this Act mentioned from any of the said colleges or bodies are not such as to secure the possession by persons obtaining such certificate of the requisite knowledge and skill for the efficient practice of dentistry or dental surgery, the General Council may represent the same to Her Majesty's Privy Council

Powers of Privy Council, on representation to make order

24. THE Privy Council, on any representation made as aforesaid, may, if they see fit, order that a certificate granted by any such college or body after such time as may be mentioned in the order shall not confer any right to be registered under this Act

Any such order may be revoked by the Privy Council on its being made to appear to them, by further representation from the General Council of

otherwise, that such college or body has made effectual provision, to the satisfaction of the General Council, for the improvement of such course of study or examination

25. AFTER the time mentioned in this behalf in any such Order in Council, no person shall be entitled to be registered under this Act in respect of a certificate granted by the college or body to which such order relates after the time therein mentioned, and the revocation of any such order shall not entitle any person to be registered in respect of a certificate granted before such revocation

Consequences of order,

26. If it appears to the General Council that an attempt has been made by any medical authority to impose on any candidate offering himself for examination an obligation to adopt or refrain from adopting the practice of any particular theory of dentistry or dental surgery as a test condition of admitting him to examination, or granting a certificate of fitness under this Act, the General Council may represent the same to the Privy Council, and the Privy Council may thereupon issue an injunction to the authority so acting directing them to desist from such practice, and in the event of their not complying therewith, then to order that such authority shall cease to have power to confer any right to be registered under this Act so long as they continue such practice

Privy Council may prohibit attempts to impose restrictions as to any theory of dentistry by bodies entitled to grant certificates.

27. A CERTIFICATE under this Act shall not confer any right or title to be registered under the Medical Act, 1858, in respect of such certificate, nor to assume any name, title, or designation implying that the person mentioned in the certificate is by law recognized as a licentiate or practitioner in medicine or general surgery

Saving as to registration under 21 & 22 Vict., c 90

22 Vict., 28. IN the event of a board being at any time * * *¹ established, whether under the name of a medical board or otherwise, for nominating on behalf of any two or more of the medical authorities examiners of persons desirous of practising medicine and surgery, whether such board (in this Act referred to as a medical board) is established under the Medical Act, 1858, or otherwise, a person shall not receive a certificate of fitness to practise as a dentist from any medical authority represented on such board, or, if such board is established for the whole of England, Scotland, or Ireland, shall not be entitled to be registered in respect of any certificate obtained in England, Scotland, or Ireland, as the case may be, unless he has obtained from such board a certificate that he has shown by examination that he is qualified to practise dentistry or dental surgery Provided that one-half at least of the examiners at any such examination shall be persons registered under this Act

Provision for conduct of examination by medical boards, if established.

The medical board shall, in such manner as may be from time to time directed by the General Council, certify to the general registrar and to the medical authorities the persons who have shown by examination that they are qualified to practise dentistry or dental surgery, and every person so certified shall on application receive from the Royal College of Surgeons of England or the Royal College of Surgeons of Edinburgh or the Faculty of Physicians and

¹ The words "after the passing of this Act" were repealed (U K) by 57 & 58 Vict., c 56 (S L R).

Surgeons of Glasgow, or the Royal College of Surgeons of Ireland, a certificate of fitness constituting such person a licentiate in dental surgery or dentistry of such college or faculty

If a medical authority certify to the general registrar the names and addresses of the persons who, having been so certified by the medical board, have received certificates from that authority, together with the other particulars required for the registration of such persons, the general registrar may, upon payment of the registration fee, register every such person in the dentists' register without application from that person

The General Council shall have the same power of making rules respecting the examination of persons desiring to obtain certificates of being qualified to practise dentistry or dental surgery as they have for the time being in respect of the examination of persons desiring to obtain a qualification to practise medicine and surgery, and there shall be the same right of appeal to the Privy Council against such rules

The General Council and the Privy Council shall have the same control over the medical board, so far as regards the examination of persons desiring to practise dentistry or dental surgery, as they have as regards the examination of persons desiring to practise medicine and surgery, and shall have the same power of dismissing the members of such board

The General Council may cause to be framed, and may approve, and when approved, submit to the Privy Council, a scheme to carry into effect the provisions of this Act with respect to a medical board, and rules respecting examinations and for extending, with or without any exception or modification, to the examination of persons desirous of practising dentistry or dental surgery, the provisions of any Act for the time being in force with respect to the examination of persons desiring to practise medicine or surgery, and any such scheme when confirmed by the Privy Council shall have full effect

Any such scheme may provide for the fees to be paid on admission to the examinations, and for the application of such fees for public purposes and generally for such matters as appear to be necessary or proper for carrying into effect the scheme and regulating the examinations

Supplemental

Evidence of
registration

29. A COPY of the register of dentists for the time being, purporting to be printed and published in pursuance of this Act, shall be evidence in all cases (until the contrary be made to appear) that the persons therein specified are registered according to the provisions of this Act, and the absence of the name of any person from such copy shall be evidence (until the contrary be made to appear) that such person is not registered according to the provisions of this Act. Provided that, in the case of any person whose name does not appear in such copy, a certified copy under the hand of the registrar of the General Council of the entry of the name of such person in the dentists' register shall be evidence that such person is registered according to the provisions of this Act.

30. EVERY person registered under this Act shall be exempt, if he so desires, from serving on all juries and inquests whatsoever, and from serving all corporate, parochial, ward, hundred, and town-ship offices and from serving in the militia, and the name of any registered person shall not be returned in any list of persons liable to serve in the militia or in any such office as aforesaid

Exemptions
of registered
persons.

31. THE powers by this Act vested in the Privy Council may be exercised by any two or more of the Lords and others of Her Majesty's most honourable Privy Council

Exercise of
powers by
Privy
Council.

Any order made by the Privy Council, or any appeal to them under this Act, may be made conditionally, or unconditionally, and may contain such terms and directions as to the Privy Council seem just

32. ALL moneys arising from fees paid on registration or from the sale of copies of the registers, or otherwise received by the General Council under this Act, shall be applied, in accordance with such regulations as may be from time to time made by the General Council, in defraying the expenses of registration and the other expenses of the execution of this Act, and subject thereto, towards the support of museums, libraries or lectureships, or for public purposes connected with the profession of dentistry or dental surgery, or towards the promotion of learning and education in connexion with dentistry or dental surgery

Application
of fees

33. THE treasurers of the General and Branch Councils shall enter in books to be kept for that purpose a true account of all sums of money by them, received and paid under this Act, and such accounts shall be submitted by them to the General Council and Branch Councils respectively at such times as the councils may respectively require. Such accounts shall be published annually, and shall be laid before both Houses of Parliament in the month of March in every year, if Parliament be then sitting, or if Parliament be not sitting, then within one month after the commencement of the next sitting of Parliament

Account to
be published

34. ANY registrar who wilfully makes or causes to be made any falsification in any matter relating to any register under this Act shall be deemed guilty of a misdemeanor in England or Ireland, and in Scotland of crime or offence punishable by fine or imprisonment, and shall, on conviction thereof, be liable to be imprisoned for any term not exceeding twelve months

Penalty
on wilful falsi-
fication of
register

35. ANY person who wilfully procures or attempts to procure himself to be registered under this Act, by making or producing, or causing to be made or produced, any false or fraudulent representation, or declaration, either verbally or in writing, and any person aiding and assisting him therein, shall be deemed guilty of a misdemeanor in England and Ireland, and in Scotland of a crime or offence punishable by fine or imprisonment, and shall, on conviction thereof, be liable to be imprisoned for any term not exceeding twelve months

Penalty for
obtaining
registration
by false re-
presentation

36. EVERY registrar of deaths in the United Kingdom, on receiving notice of the death of any person registered under this Act, shall forthwith transmit by post, to the registrar of the General Council and to the registrar of the Branch Council for that part of the United Kingdom in which the death

Notice of
death of
practitioner

occurs, a certificate under his own hand of such death, with the particulars of time and place of death, and may charge the cost of such certificate and transmission as an expense of his office

Provision
for certain
students

37. ANY person who has been articled as a pupil and has paid a premium to a dental practitioner entitled to be registered under this Act in consideration of receiving from such practitioner a complete dental education shall, if his articles expire before the first day of January, one thousand eight hundred and eighty, be entitled to be registered under this Act as though he had been in *bonâ fide* practice before the passing of this Act. Moreover, it shall be lawful for the General Council by special order to dispense with such of the certificates, examinations, or other conditions for registration in the dentists' register required under the provisions of this Act, or under any byelaws, orders, or regulations made by its authority, as to them may seem fit, in favour of any dental students or apprentices who have commenced their professional education or apprenticeship before the passing of this Act

Byelaws

38. ALL byelaws, orders, and regulations made by the General Council, or by any medical authority under the authority of this Act, shall be made and may be from time to time altered or revoked in such manner, and subject to such approval or confirmation if any, as in the case of other byelaws, orders, or regulations made by such medical authority

Services of
notices by
post.

39. SUBJECT to the other provisions of this Act, all notices and documents required by or for the purposes of this Act to be sent may be sent by post, and shall be deemed to have been received at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such sending it shall be sufficient to prove that the letter containing the notice or document was repaid, and properly addressed, and put into the post

Such notices and documents may be in writing or in print, or partly in writing and partly in print, and when sent to the General Council, or a medical board, or a medical authority, shall be deemed to be properly addressed if addressed to the General Council, medical board, or medical authority, or to some officer of such Council, board, or authority, at the principal office or place of business of such Council, board, or authority; and when sent to a person registered in the medical register, shall be deemed to be properly addressed if addressed to him according to his address registered in that register

Recovery of
penalties

40. ALL fees under this Act may be recovered as ordinary debts due to the General Council, and all penalties under this Act may be recovered and enforced as follows, that is to say —In England, before two or more justices of the peace, in manner directed by the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," and any Act amending the same, and in Scotland, before the sheriff or sheriff substitute, or two justices, in manner provided by the Summary Procedure Act, 1864, and any Act amending the same, and c 53.

14 & 15 Vict.,
c. 93

in Ireland, within the police district of Dublin metropolis, in manner directed by the Acts regulating the powers and duties of justices of the peace for such district or of the police of such district, and elsewhere in Ireland, before two or more justices of the peace, in manner directed by the Petty Sessions (Ireland) Act, 1851, and any Act amending the same

SCHEDULE

DECLARATION required to be made by a person who claims to be registered under the Dentists Act, 1878, on the ground that he was *bonâ fide* engaged in the practice of dentistry at the date of the passing of the Dentists Act, 1878

I, _____, residing at _____,
_____, hereby declare that I was *bonâ fide* engaged
in the practice of dentistry at _____,
_____, at the date of the passing of
the Dentists Act, 1878

(Signed)

(Witness)

Dated this _____ day of _____ 18____

NOTE—Any person who wilfully procures or attempts to procure himself to be registered under this Act, by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, and any person aiding and assisting him therein is liable under the Dentists Act, 1878, to imprisonment for twelve months

THE ELDERS' WIDOWS' FUND (INDIA) ACT, 1878

(41 & 42 Vict., c. 47.)

An Act to enable the Trustees of the Elders' Widows' Fund to apply the capital of the said Fund in aid of Income, and for other purposes in relation thereto

[8th August, 1878]

[Preamble rep (U K) 57 & 58 Vict., c. 56 (S L R)]

1. [Rep as to U K 46 & 47 Vict., c. 39 (S L R) Omitted as being spent]

2. * * * * * THE India Office Provident Fund shall alone be liable to the claims of those subscribers to the Elders' Widows' Fund who have elected to subscribe to the India Office Provident Fund Liability of Provident Fund.

3. THE annual contribution in aid of the Elders' Widows' Fund payable by the Secretary of State for India in Council shall be reduced to five hundred pounds a year ¹ * * * * * Annual contribution of Secretary of State.

4. THE trustees of the Elders' Widows' Fund shall from time to time, until the liabilities of the said fund are satisfied or the invested capital thereof is Trustees empowered to raise, by sale

¹ Words repealed (U K.), 57 & 58 Vict., c. 56 (S L R) Spent

528 *The Elders' Widows' Fund (India) Act, 1878* [41 & 42 Vict., c. 47.]

The Territorial Waters Jurisdiction Act, 1878 [41 & 42 Vict., c. 73]

of invested capital, sufficient amount to meet liabilities.

exhausted, raise, by sale of sufficient portions of such invested capital, such an amount as may be from time to time required, in addition to the income of the fund, to meet the current liabilities thereof

Ultimate surplus to be transferred to Secretary of State.

5. ANY ultimate surplus which may remain in the hands of the trustees of the Elders' Widows' Fund, after satisfying all the liabilities thereof, shall be transferred and paid to the Secretary of State for India in Council as part of the revenues of India

In case capital should be exhausted Secretary of State to meet liabilities.

6 IN case the invested capital of the Elders' Widows' Fund shall be exhausted before all the liabilities thereof are satisfied, the Secretary of State for India in Council shall from time to time, out of the revenues of India, pay to the trustees of the said fund such sums or sum as may be required to make good the deficiency in accordance with the said resolution of one thousand eight hundred and thirty-four, and to enable the said trustees from time to time to meet the current liabilities of the said fund

THE TERRITORIAL WATERS JURISDICTION ACT, 1878

(41 & 42 Vict., c. 73)

An Act to regulate the Law relating to the Trial of Offences committed on the Sea within a certain distance of the Coasts of Her Majesty's Dominions

[16th August, 1878]

WHEREAS the rightful jurisdiction of Her Majesty, her heirs and successors, extends and has always extended over the open seas adjacent to the coasts of the United Kingdom and of all other parts of Her Majesty's dominions to such a distance as is necessary for the defence and security of such dominions

And whereas it is expedient that all offences committed on the open sea within a certain distance of the coasts of the United Kingdom and of all other parts of Her Majesty's dominions, by whomsoever committed, should be dealt with according to law

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows

Short title

1. THIS Act may be cited as the Territorial Waters Jurisdiction Act, 1878

Amendment of the law as to the Jurisdiction of the Admiral

2. AN offence committed by a person, whether he is or is not a subject of Her Majesty, on the open sea within the territorial waters of Her Majesty's dominions, is an offence within the jurisdiction of the admiral, although it may have been committed on board or by means of a foreign ship, and the person who committed such offence may be arrested, tried, and punished accordingly.

3 PROCEEDINGS for the trial and punishment of a person who is not a subject of Her Majesty, and who is charged with any such offence as is declared by this Act to be within the jurisdiction of the Admiral, shall not be instituted in any court of the United Kingdom, except with the consent of one of Her Majesty's Principal Secretaries of State, and on his certificate that the institution of such proceedings is in his opinion expedient, and shall not be instituted in any of the dominions of Her Majesty out of the United Kingdom, except with the leave of the Governor of the part of the dominions in which such proceedings are proposed to be instituted, and on his certificate that it is expedient that such proceedings should be instituted

Restriction on institution of proceedings for punishment of offence

4. ON the trial of any person who is not a subject of Her Majesty for an offence declared by this Act to be within the jurisdiction of the Admiral, it shall not be necessary to aver in any indictment or information on such trial that such consent or certificate of the Secretary of State or Governor as is required by this Act has been given, and the fact of the same having been given shall be presumed unless disputed by the defendant at the trial, and the production of a document purporting to be signed by one of Her Majesty's Principal Secretaries of State as respects the United Kingdom, and by the Governor as respects any other part of Her Majesty's dominions, and containing such consent and certificate, shall be sufficient evidence for all the purposes of this Act of the consent and certificate required by this Act

Provisions as to procedure

Proceedings before a justice of the peace or other magistrate previous to the committal of an offender for trial or to the determination of the justice or magistrate that the offender is to be put upon his trial shall not be deemed proceedings for the trial of the offence committed by such offender for the purposes of the said consent and certificate under this Act

5. NOTHING in this Act contained shall be construed to be in derogation of any rightful jurisdiction of Her Majesty, her heirs or successors, under the law of nations, or to affect or prejudice any jurisdiction conferred by Act of Parliament or now by law existing in relation to foreign ships or in relation to persons on board such ships

Saving as to jurisdiction

6. THIS Act shall not prejudice or affect the trial in manner heretofore in use of any act of piracy as defined by the law of nations, or affect or prejudice any law relating thereto, and where any act of piracy as defined by the law of nations is also any such offence as is declared by this Act to be within the jurisdiction of the Admiral, such offence may be tried in pursuance of this Act, or pursuance of any other Act of Parliament, law, or custom relating thereto

Saving as to piracy

7. In this Act, unless there is something inconsistent in the context, the following expressions shall respectively have the meanings hereinafter assigned to them, that is to say,

Definitions

"The jurisdiction of the Admiral," as used in this Act, includes the jurisdiction of the Admiralty of England and Ireland, or either of such jurisdictions as used in any Act of Parliament, and for the purpose of arresting

"Jurisdiction of the Admiral"

any person charged with an offence declared by this Act to be within the jurisdiction of the Admiral, the territorial waters adjacent to the United Kingdom or any other part of Her Majesty's dominions, shall be deemed to be within the jurisdiction of any judge, magistrate, or officer having power within such United Kingdom, or other part of Her Majesty's dominions, to issue warrants for arresting or to arrest persons charged with offences committed within the jurisdiction of such judge, magistrate, or officer

"United Kingdom" "United Kingdom" includes the Isle of Man, the Channel Islands, and other adjacent islands

"Territorial waters of Her Majesty's dominions" "The territorial waters of Her Majesty's dominions," in reference to the sea, means such parts of the sea adjacent to the coast of the United Kingdom, or the coast of some other part of Her Majesty's dominions, as is deemed by international law to be within the territorial sovereignty of Her Majesty, and for the purpose of any offence declared by this Act to be within the jurisdiction of the Admiral, any part of the open sea within one marine league of the coast measured from low-water mark shall be deemed to be open sea within the territorial waters of Her Majesty's dominions

"Governor" "Governor," as respects India, means the Governor General or the Governor of any presidency, and where a British possession consists of several constituent colonies, means the Governor General of the whole possession or the Governor of any of the constituent colonies, and as respects any other British possession, means the officer for the time being administering the government of such possession, also any person acting for or in the capacity of Governor shall be included under the term "Governor"

"Offence" "Offence" as used in this Act means an act, neglect, or default of such a description as would, if committed within the body of a country in England, be punishable on indictment according to the law of England for the time being in force

"Ship" "Ship" includes every description of ship, boat, or other floating craft

"Foreign ship" "Foreign ship" means any ship which is not a British ship

THE REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES (ARMY) ACT 1879

(42 & 43 Vict., c 8)

An Act to make further provision for the Registration of Deaths, Marriages, and Births occurring out of the United Kingdom among officers and soldiers of Her Majesty's Forces, and their families

[23rd May, 1879]

[Preamble]

Short title.

1. THIS Act may be cited as the Registration of Births, Deaths, and Marriages (Army) Act, 1879.

2. IF Her Majesty is pleased from time to time to make regulations re-
specting the registration of deaths and births occurring and marriages solemn-
ized out of the United Kingdom among officers and soldiers of Her Majesty's
land forces and their families or any of them, the registers kept from time to
time in pursuance of the said regulations shall, in manner provided by the
regulations for the time being in force, be authenticated and transmitted to the
registrar general of births and deaths in England

Transmission
to registrar of
registers of
births, deaths
and marriages
of army kept
in pursuance
of Her
Majesty's
regulations

Where it appears from any such register that an officer or soldier whose
death or marriage is entered therein, or to whose family a person whose death,
marriage, or birth is entered therein belonged was a Scotch or Irish subject
of Her Majesty, the registrar general of births and deaths in England shall,
as soon as may be after receiving the register, send a certified copy of so much
thereof as relates to such death, marriage, or birth to the registrar general
of births and deaths in Scotland or Ireland, as the case may require

Every registrar general of births and deaths to whom a register or certi-
fied copy of a register is sent, in pursuance of this section, shall cause the same
to be filed and preserved in or copied in a book to be kept by him for the pur-
pose, and to be called the army register book and such book shall be deemed
to be a certified copy of the register book within the meaning of the Acts re-
lating to the registration of births and deaths in England, Scotland, and
Ireland respectively

3. WHEREAS under the directions of Her Majesty, or of one of Her Maj-
esty's Principal Secretaries of State, or the Commander-in-Chief or other
lawful authority, various documents, such as registers, muster-rolls and
pay-lists have been kept, showing the deaths and births which have occurred
and the marriages which have been solemnized among officers and soldiers
of Her Majesty's land forces and their families

Provision as
to existing
documents
evidencing
deaths, mar-
riages, and
births among
officers
and soldiers
of the army,
and their
families

And whereas it is expedient to make further provision respecting the said
documents Be it therefore enacted as follows

Where any of such documents, or any certified extracts thereof made under
the direction of one of Her Majesty's Principal Secretaries of State, have
either before or after the passing of this Act been transmitted to the registrar
general of births and deaths in England, such documents or extracts shall be
deemed to be in the legal custody of the said registrar general, and shall be
admissible in evidence, and a copy of any such document or extract of, or any
part thereof, if purporting to be certified to be a true copy under the seal of
the register office of the registrar general, shall be admissible in evidence of
such document, extract, or part

4. NOTHING in this Act shall apply to any deaths, marriages, or births
which occur in the United Kingdom, except where the same occurred before
the commencement of this Act

Saving as to
births, deaths
and mar-
riages in the
United
Kingdom.

5. [Rep as to U K 57 & 58 Vict, c 56 (S L R) Omitted as being
spent]

THE SLAVE TRADE (EAST AFRICAN COURTS) ACT, 1879

(42 & 43 Vict, c 38.)

An Act to amend the Slave Trade (East African Courts) Act, 1853

[11th August, 1879]

[Preamble]

Short title
and con-
struction.

1. THIS Act may be cited as the Slave Trade (East African Courts) Act, 1879

This Act shall be construed as one with the Slave Trade (East African Courts) Act, 1873, and that Act and this Act may be cited together as the ^{36 & 37 Vict, c 59} Slave Trade (East African Courts) Acts, 1873 and 1879

Definition of
"East African
Courts" in 36
& 37 Vict, c
59

2. * * * * *

In the Slave Trade (East African Courts) Act, 1873, the term "East ^{36 & 37 Vict, c 59} African Courts" shall mean the Vice-Admiralty Court at Aden, and any of Her Majesty's consular officers within the dominions of the sovereigns of Zanzibar, Muscat, and Madagascar on whom jurisdiction in relation to vessels captured on suspicion of being engaged in the slave trade, or otherwise in relation to the slave trade, has been conferred by an order in Council, made whether before or after the passing of this Act

* * * * *

Definition of
treaty in 36 &
37 Vict, c
59, s. 7

3. * * * * *

A treaty in relation to the slave trade made either before or after the passing of this Act by or on behalf of Her Majesty with the Government of Egypt shall be deemed to be a treaty in relation to the slave trade to which section seven of the Slave Trade (East African Courts) Act, 1873, applies, and Orders in Council in relation to such treaty may be made accordingly in pursuance of ^{36 & 37 Vict c 59} the said section

Amendment
of 36 & 37
Vict, c 59,
s 3, as to
jurisdiction
over British
vessels

4. Each of the East African Courts shall have the same jurisdiction in regard to a British vessel seized on suspicion of being engaged in or fitted out for the slave trade, and to the persons, slaves, goods, and effects on board thereof, when the vessel, in pursuance of any existing East African Slave Trade treaty, is seized and brought for trial by the commander or officer of any ship belonging to the foreign state with whom such treaty is made, as such court would have if the vessel had been seized by the commander or officer of any of Her Majesty's ships

¹ The first and last paragraphs of this section have been repealed as to the U K by 57 & 58 Vict, c 56 (S L R)

* Words repealed (U K.) by 57 & 58 Vict, c 56 (S L R) have been omitted.

THE INDIAN GUARANTEED RAILWAYS ACT, 1879.

(42 & 43 Vict., c. 41)

An Act to enable guaranteed Railway Companies in India and the Secretary of State for India in Council to enter into Agreements with respect to the working of Railways, and with respect to Telegraphs, and to confer upon those Companies additional powers with respect to their undertakings.

[11th August, 1879]

[Preamble]

1. IN and for the purposes of this Act,—

the term “ guaranteed company ” means any of the companies specified in the schedule to this Act, and any railway company which for the time being constructs, maintains, or works a railway under any guarantee from or arrangement with the Secretary of State for India in Council

Interpreta-
tion.

the term “ railway company ” includes any person or body of persons being the owner or lessee of or working a railway, except the East Indian Railway Company, and except any railway company of which the undertaking is after the passing of this Act purchased by the Secretary of State for India in Council

the term “ railway ” means a railway constructed before or after the passing of this Act, and belonging to the Secretary of State for India in Council, or situate in Her Majesty’s territories in India, or in any territory in the East Indies belonging to any native prince or state in alliance with Her Majesty or to any European power, and includes any tramway so belonging or situate and worked by steam power, and any ferry so belonging or situate and worked or used in connection with a railway

2. A GUARANTEED company may from time to time make with the Secretary of State for India in Council, and carry into effect, or, with the sanction of the Secretary of State for India in Council, make with any railway company, and carry into effect, any agreement with respect to any of the following purposes, namely,

Power for
guaranteed
company to
enter into
working
agreements.

- (a) the working, use, management, and maintenance of any railway or part of a railway
- (b) the supply of rolling stock and machinery necessary for any of the purposes hereinbefore mentioned, and of officers and servants for the conduct of the traffic of any such railway or part
- (c) the payments to be made and the conditions to be performed with respect to such working, use, management, and maintenance
- (d) the interchange, accommodation, and conveyance of traffic on, coming from, or destined for the respective railways of the contracting parties, and the fixing, collecting, apportionment, and appropriation of the revenues arising from that traffic

- (e) generally the giving effect to any such provisions of stipulation with respect to any of the purposes hereinbefore mentioned as the contracting parties may think fit and mutually agree on

Power for
guaranteed
company to
make agree-
ments with
the Secretary
of State as to
telegraphs

3. A GUARANTEED company may from time to time make with the Secretary of State for India in Council, and carry into effect, any agreement with respect to any of the following purposes, namely,

- (a) the surrendering, selling, or letting by the company to the Secretary of State of all or any part of the telegraphs belonging to the company
- (b) the doing of anything connected with the working, use, management, or maintenance of or otherwise relating to any telegraphs in India which belong to the Secretary of State in Council or a guaranteed company, or in which the Secretary of State in Council or any such company is for the time being interested, including the application of the revenue to arise from any such telegraphs
- (c) generally the giving effect to any such provisions or stipulations with respect to any such telegraphs as the Secretary of State in Council and any such company may think fit and mutually agree on

Additional
powers of
guaranteed
company

4. A GUARANTEED company may from time to time, with the sanction of the Secretary of State for India in Council, exercise all or any of the following powers

- (a) they may use, maintain, farm, or work and take tolls in respect of any bridge or ferry used in connection with their railway
- (b) they may construct, use, maintain, and take tolls in respect of any road in connection with a railway bridge
- (c) they may provide any means of transport which may be required for the reasonable convenience of persons or goods carried or to be carried on their railway, but not between any places between which any company shall for the time being be carrying on the business of carriers by water

provided always, that the capital outlay on the works mentioned in the three preceding sub-sections shall not in the case of any guaranteed company exceed in all ten lacs of rupees.

- (d) they may make and carry into effect agreements with the Secretary of State for India in Council for the construction of rolling stock, plant, or machinery used on or in connection with railways, or for leasing or taking on lease any rolling stock, plant, machinery, or equipments required for use on a railway

A guaranteed company shall have, for the purpose of recovering any toll which they are authorised to take under this section, such powers as may be

conferred upon them by laws and regulations made by the Governor General of India in Council

5. THE Secretary of State for India in Council may from time to time, with respect to any case or class of cases, delegate to the Governor General of India in Council the power to give any sanction required under this Act

Secretary of State may delegate to Governor General right of sanction under this Act.

6. THE powers conferred by this Act shall be in addition to and not in derogation of any powers existing independently of this Act

Powers of Act cumulative

7. ANY agreement made before the passing of this Act by a guaranteed company for any of the purposes specified in this Act shall be as valid as if it had been made after the passing of this Act

Validation of past agreements

8. THIS Act may be cited as the Indian Guaranteed Railways Act, 1879

Short title.

SCHEDULE

The Great Indian Peninsula Railway Company
The Madras Railway Company
The Bombay, Baroda, and Central India Railway Company.
The Scinde, Punjab, and Delhi Railway Company
The Eastern Bengal Railway Company
The South Indian Railway Company
The Oudh and Rohilkhand Railway Company (Limited)

THE EAST INDIAN RAILWAY (REDEMPTION OF ANNUITIES) ACT, 1879

(42 & 43 Vict, c. 43.)

An Act to enable the Secretary of State in Council of India to create and issue Capital Stock in the United Kingdom in exchange for so much of the Annuity created under the East Indian Railway Company Purchase Act, 1879, and thereby made chargeable on the Revenues of India as may be purchased by the Secretary of State under that Act

[1 1th August 1879]

[Preamble recites 42 & 43 Vict, c 206 Rep (U K) 57 & 58 Vict, c 56 (S L R)]

1. [Rep as to U K 57 & 58 Vict, c 56 (S L R) Omitted as being spent]

2. THE Secretary of State may create and issue so much capital stock, bearing interest at the rate of four per centum per annum, as may be required

Power to the Secretary of State in Coun

oil of India
to create and
issue so much
capital stock
as may be re-
quired for the
purposes of
42 & 43
Vict., c 206

for the purpose of completing any purchase or purchases authorised by the East Indian Railway Company Purchase Act, 1879, of any portion or portions of the said annuity of one million four hundred and seventy-three thousand seven hundred and fifty pounds, created under the authority of that Act

As to terms
of issue and
date of pay-
ment off

3 ANY capital stock created under this Act may be issued on such terms as may be determined by the Secretary of State, and may bear interest during such period and be paid off at par at such time as the Secretary of State may prescribe

Transfer
books of such
capital stock
to be kept

* * * * *
4 There shall be kept, either at the office of the Secretary of State in London or at the Bank of England, books wherein entries shall be made of the said capital stock, and wherein all assignments or transfers of the same, or any part thereof, shall be entered and registered and shall be signed by the party or parties making such assignments or transfers, or if such party or parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals to be attested by two or more credible witnesses, and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof, and no other mode of assigning or transferring the said capital stock, or any part thereof, or any interest therein, shall be good and available in law, and no stamp duties whatsoever shall be charged on the said transfers, or any of them

power to
raise money
for payment
of principal
money

5 UPON or for the payment of or repayment of any principal money secured under this Act, the Secretary of State may at any time borrow or raise by the creation and issue of capital stock, bearing interest at such rate per centum per annum as the Secretary of State may think fit, all or any part of the amount of principal money required to be paid off or repaid, and so from time to time as all or any part of the principal money secured under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be paid off or repaid. Provided that nothing in this Act contained shall authorize the Secretary of State to re-issue any capital stock or securities which may, by the operation of the said sinking fund, be cancelled or redeemed in reduction of the public debt of India created under the authority of Parliament

Capital stock
and interest
to be charged
on revenues
of India.
Half-yearly
returns of
loans to in-

6 ALL capital stock to be issued under this Act, and the interest thereon shall be charged on and payable out of the revenues of India in like manner as other liabilities incurred on account of the Government of India

7 THE half-yearly returns to Parliament of loans raised in England chargeable upon the revenues of India shall include the amount of the sinking

42 & 43 Vict., c. 43.] *The East Indian Railway (Redemption 537
of Annuities) Act, 1879*

42 & 43 Vict., c. 60.] *The East India Loan Act, 1879.*

fund created by the Secretary of State under the East Indian Railway Com-
pany Purchase Act, 1879, and the application thereof

clude sinking
fund under
42 & 43
Vict., c. 206

8 THIS Act should not prejudice or affect any power of raising or borrow-
ing money vested in the Secretary of State at the time of passing thereof

Saving of
borrowing
powers.

9 ANY capital stock created under this Act shall be deemed to be East
India stock within the Act twenty-second and twenty-third Victoria, chapter
thirty-five, section thirty-two, unless and until Parliament shall otherwise pro-
vide, and any capital stock created under this Act shall be deemed to be and
shall mean India stock within the Act of the twenty-sixth and twenty-seventh
Victoria, chapter seventy-three, anything in the said last-mentioned Act to
the contrary notwithstanding

Stock created
hereunder to
be deemed
East India
stock

10 THE provisions contained in the third section of the Married Women's
Property Act, 1870, and all other enactments in the said Act relating to or
affecting such provisions shall be extended and be applicable to any capital
stock created under this Act

33 & 34 Vict.,
c. 93, s. 3,
etc., extended
to capital
stock created
under this
Act.

THE EAST INDIA LOAN ACT, 1879 ¹

(42 & 43 Vict., c. 60)

*An Act to enable the Secretary of State in Council of India to raise Money in
the United Kingdom for the Service of the Government of India.*

[15th August, 1879]

[*Preamble Rep (U K) 57 & 58 Vict., c. 56 (S L R)*]

21 It shall be lawful for the Secretary of State in Council of India,³
* * to raise in the United Kingdom, for the service of the Government
of India, any sum or sums of money not exceeding in the whole five millions
of pounds sterling, of which two millions five hundred thousand pounds sterling
may be raised by the creation and issue of capital stock bearing interest,
and the whole or any portion of the remaining two millions five hundred
thousand pounds sterling may be raised by the creation and issue of bonds,
debentures, or bills, but not by the creation and issue of capital stock
bearing interest, and so that the total sum raised by bills current at any time
shall not exceed one million pounds sterling

Power to the
Secretary of
State in
Council of
India to raise
any sum not
exceeding
5,000,000*l.*

2. ALL bonds issued under the authority of this Act may be issued under
the hands of two members of the Council of India, and countersigned by the

As to issue
of bonds.

¹ This Act may be cited, with eighteen others, as the East India Loans Acts, 1859 to 1893—
See the Short Titles Act, 1896 (59 & 60 Vict., c. 14), post

² By 56 & 57 Vict., c. 70, s. 20 [printed *post*], the whole or any part of the money, which
by this Act the Secretary of State is authorized to borrow, may be raised by the creation of capital
stock.

³ The words "at any time or times after the passing of this Act" were repealed (U K.) by
57 & 58 Vict., c. 56 (S L R)

Secretary of State for India, or one of his under secretaries, or his assistant under secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit

As to issue of debentures 3 ALL debentures issued under the authority of this Act may be issued 1**** for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council

As to pay ment of principal and interest on debentures. 4 ALL debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively, and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein, and the principal moneys and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England

Debentures and coupons for interest transferable by delivery 5 ALL or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable by the delivery of such debentures, and the coupons for interest annexed to any debenture issued under the authority of this Act shall also pass by delivery

As to issue of bills 6 ALL bills issued under the authority of this Act may be issued 1*** for such respective amounts as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council

Description of currency, and interest on bills. 7 A BILL issued under the authority of this Act shall be a bill for the payment of the principal sum named therein at the date therein mentioned, so that the date be not more than twelve months from the date of the bill, and the principal sum secured by such bill shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England. Interest shall be payable in respect of such bill at such rate in such manner as the Secretary of State in Council may determine

Capital stock may be created and issued. 8 ANY capital stock created under the authority of this Act shall bear such a rate of interest as the Secretary of State in Council may think fit, and such capital stock may be issued on such terms as may be determined by the Secretary of State in Council, and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock

Transfer books of such capital stock to be kept. 9 * * * ~² There shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be made of the said capital stock, and wherein all assignments or transfers of the same, or any part thereof, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or if such parties

¹ The words " under the hands of two members of the Council, and countersigned as afore said " were repealed (U K) by 61 & 62 Vict, c 22 (S L R)

² Words repealed (U K) by 57 & 58 Vict. c 50 (S L R), have been omitted.

be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses, and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof, and no other mode of assigning or transferring the said capital stock or any part thereof, or any interest therein, shall be good and available in law, and no stamp duties whatsoever shall be charged on the said transfers or any of them

10. THE whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed five millions

Amount charged on revenues of India not to exceed 5,000,000l
Power to raise money for payment of principal money

11. UPON or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid, and the total amount raised under this section by the creation and issue of capital stock bearing interest shall not, at any one time, exceed two millions five hundred thousand pounds sterling

12. ALL bonds, debentures and bills to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the Government of the said territories

Securities, etc., to be charged on revenues of India

13 THE provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties, on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto

Provisions as to composition for stamp duties on India bonds extended to bonds and debentures issued under this Act

14. ALL provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture or bill issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority

Forgery of debentures and bills to be punishable as forgery of East India bonds

15. PROVIDED always, that, at the end of each of the half-years ending on the thirty-first day of March and the thirtieth day of September in every year, the Secretary of State in Council shall prepare or cause to be prepared a return of all loans raised in England under the provisions of this Act or of

Half-yearly returns of moneys raised on loan, etc., to be

presented to
Parliament.

any other Acts, chargeable on the revenues of India, outstanding at the commencement of each half year, with the rates of interest and total amount payable thereon, and the date of the termination of each loan, the debt incurred during the half-year, the moneys raised thereby during the half-year, the loan paid off or discharged during the half-year, and the loans outstanding at the close of the half-year, stating, so far as the public convenience will allow, the purpose or service for which moneys have been raised during the half-year, and that a similar return shall also be prepared of all loans raised in India, that such returns shall be presented to both houses of Parliament within fifteen days after the expiration of the said half-yearly periods as regards the loans raised in England, and within three months as regards the loans raised in India, if Parliament be then sitting, or if not sitting, then within one week after Parliament shall be next assembled, and the various conditions in respect to terms, prices, dates of payment, and rates of interest on which bills have been issued during the half-year under the authority of sections six and seven of this Act, shall be shown in the return in a form admitting of a comparison with previous years

16. [*Rep as to U K 57 & 58 Vict, c 56 (S L R) Omitted as being spent*]

Saving of
borrowing
powers of
Secretary of
State in
Council
Stock
created
under this
Act to be
India stock.

17. THIS Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof

18 1 * * * * Any capital stock created under this Act shall be deemed to be and shall mean India stock within the Act of the twenty-sixth and twenty-seventh Victoria, chapter seventy-three, anything in the said last-mentioned Act to the contrary notwithstanding

19. [*Rep as to U K 61 & 62 Vict, c 22 (S L R) Omitted as being spent*]

THE INDIAN SALARIES AND ALLOWANCES ACT, 1880

(43 Vict, c. 3)

An Act to amend the Law relating to the Salaries and Allowances of certain Officers in India, and for other purposes relating thereto

[15th March, 1880]

[Preamble]

Short title

1 THIS Act may be cited as the Indian Salaries and Allowances Act, 1880

¹ The words "any capital stock created under this Act shall be deemed to be East India stock, within the Act twenty second and twenty third Victoria, chapter thirty-five, section thirty two, unless and until Parliament shall otherwise provide, and" were repealed (U K.) by 61 and 62 Vict, c 22 (S L R)

2 It shall be lawful for the Secretary of State in Council of India from time to time to fix, or abolish the allowances for equipment and voyage of the several officers specified in the first schedule to this Act, or any of them

Power to regulate certain allowances for equipment, etc

3. It shall be lawful for the Secretary of State in Council of India from time to time to fix and alter the salaries, and to fix, alter, or abolish the allowances of the bishops and archdeacons of Calcutta, Madras, and Bombay, or any of them

Power to regulate certain ecclesiastical salaries

Provided that nothing in this section shall affect the salary or allowance of any person who is such bishop or archdeacon at the passing of this Act

4 NOTHING in this Act shall authorize the imposition of any additional charge on the revenues of India

Charges on Indian revenues not to be increased.

5 [Rep as to U K 57 & 58 Vict., c 56 (S L R).]

SCHEDULES.

FIRST SCHEDULE

The Governor General of India and the Members of his Council
The Governors of Madras and Bombay and the Members of their Councils
The Commander-in-Chief of the Forces in India

* * * * *

The Bishops and Archdeacons of Calcutta, Madras, and Bombay

Second Schedule [Rep as to U K 57 & 58 Vict., c 56 (S L R)]

THE EAST INDIA LOAN (EAST INDIAN RAILWAY DEBENTURES) ACT, 1880

(43 Vict., c 10)

An Act to enable the Secretary of State in Council of India to raise money in the United Kingdom for the purpose of paying off or redeeming Debentures of the East India Railway Company

[19th March, 1880]

[Preamble recites 42 & 43 Vict., c 206 Rep (U K) 57 & 58 Vict., c 56 (S L R)]

1. It shall be lawful for the Secretary of State at any time or times to raise in the United Kingdom for the service of the Government of India such sum or sums of money, not exceeding in the whole two millions nine hundred and fifty thousand pounds, as may be required for the purpose of paying off or redeeming the principal moneys, secured by the debentures specified in the schedule hereto, such sum or sums to be raised by the creation and issue of

Power to Secretary of State to raise any sum not exceeding 2,950,000

bonds, debentures, or capital stock bearing interest, or partly by one of such modes and partly by another or others

As to issue of bonds

2. ALL bonds issued under the authority of this Act may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State, or one of his under secretaries, or his assistant under secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the Secretary of State may think fit

As to issue of debentures

3. ALL debentures issued under the authority of this Act may be issued * * * * 1 for such respective amounts, and at such rate or rates of interest, as the Secretary of State may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State

As to payment of principal and interest on debentures

4. ALL debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively, and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein, and the principal moneys and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in London or at the Bank of England

Debentures and coupons for interest transferable by delivery

5. ALL or any number of the debentures issued under the authority of this Act and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable by the delivery of such debentures, and the coupons for interest annexed to any debenture issued under the authority of this Act shall also pass by delivery

Interest, etc, of capital stock

6 ANY capital stock created under the authority of this Act shall bear such a rate of interest as the Secretary of State may think fit, and such capital stock may be issued on such terms as may be determined by the Secretary of State, and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State may prescribe previously to the issue of such capital stock

Transfer books of such capital stock to be kept

7 IN case of the creation and issue of any such capital stock there shall be kept, either at the office of the Secretary of State in London or at the Bank of England, books wherein entries shall be made of the said capital stock, and wherein all assignments or transfers of the same, or any part thereof, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses, and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof, and no other mode of assigning or transferring the said capital stock or any part thereof or any interest therein, shall be good and available in law, and no stamp duties whatsoever shall be charged on the said transfers or any of them

¹ Words repealed (U K) by 61 and 62 Vict, c 22 (S L R), have been omitted

8 THE whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed two millions nine hundred and fifty thousand pounds

Amount to be charged on revenues of India

9. UPON or for the repayment of any principal money secured under the authority of this Act, the Secretary of State may at any time borrow or raise by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid

Power to raise money for payment of principal money

10 ALL bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured and all capital stock to be issued under this Act and the interest thereon shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the Government of India

Securities, etc., to be charged on revenues of India

11 THE provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth chapter sixty-four with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act as if such provisions were here repeated and re-enacted with reference thereto

Provisions as to composition for stamp duties on India bonds extended to bonds and debentures issued under this Act

12 ALL provisions now in force in anywise relating to the offence of forging or altering, or offering uttering, disposing of, or putting off, knowing the same to be forged or altered any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture or bond issued under the authority of this Act

Forgery of debentures and bills to be punishable as forgery of East India bonds

13. THIS Act shall not prejudice or affect any power of raising or borrowing money vested in the Secretary of State at the time of passing thereof

Saving of borrowing power of Secretary of State

14 ANY capital stock created under this Act shall be deemed to be East India stock, within the Law of Property Amendment Act, 1859,¹ section thirty-two, unless and until Parliament shall otherwise provide, and any capital stock created under this Act shall be deemed to be and shall mean India stock within the Act of the twenty-sixth and twenty-seventh Victoria, chapter seventy-three, anything in the said last-mentioned Act to the contrary notwithstanding

Stock created under this Act to be deemed East India stock

15. THE provisions contained in the third section of the Married Women's Property Act, 1870,¹ and all other enactments in the said Act relating to or affecting such provisions, shall be extended and be applicable to any capital stock created under this Act

Sec. 3, etc., of 33 & 34 Vict, c. 93, extended to capital stock created under this Act

22 & 23 Vict., c. 35

¹ Cf. 42 & 43 Vict., c. 43, ss. 9, 10, *ante*.

544 *The East India Loan (East Indian Railway Debentures)* [43 Vict, c. 10.]

The India Stock (Powers of Attorney) Act, 1880 [43 Vict, c. 11.]

34 & 35 Vict, c 29, extended to all capital stock issued by the Secretary of State under the authority of Parliament

Short title.

16 THE provisions contained in the Act of the thirty-fourth and thirty-fifth Victoria, chapter twenty-nine, shall be extended and be applicable to all capital stock issued or to be issued by the Secretary of State under the authority of Parliament

17 THIS Act may be cited as the East Indian Loan (East Indian Railway Debentures) Act, 1880

SCHEDULE

REDEEMABLE DEBENTURES OF EAST INDIAN RAILWAY COMPANY

Principal monies secured	When payable	Rate of interest per annum
£		
1,000,000	1 January 1881	4½ per cent
1,279,850	12 July 1882	4 per cent.
230,150	1 December 1882	4 per cent
440,000	19 March 1883	4 per cent
2,950,000		

THE INDIA STOCK (POWERS OF ATTORNEY) ACT, 1880¹

(43 Vict c 11.)

An Act to make Powers of Attorney and Requests for Transmission of Dividend Warrants by Post relating to India Five per centum Stock applicable to India Four per centum Stock

[19th March, 1880]

[Preamble Rep (U K) 57 & 58 Vict, c 56 (S L R)]

Short title.

1 THIS Act may be cited as the India Stock (Powers of Attorney) Act, 1880

Powers of attorney for sale and transfer of India five per cent stock to apply to

2 EVERY power of attorney in force at the time of the passing of this Act for the sale and transfer of any India five per cent stock shall, unless it be legally revoked or become void, remain in force for the purpose of enabling the attorney or attorneys therein named or referred to to receive and give receipt for any principal sum of such India five per cent stock, and to sell and transfer

¹ This Act may be cited, with eighteen others, as the East India Loans Acts, 1879 to 1893—see the Short Titles Act, 1896 (59 & 60 Vict, c 14), *post*.

44 & 45 Vict., c. 3.] *The Judicial Committee Act, 1881.*

any India four per cent stock that may be accepted in exchange for such five India four per cent stock, and to receive the consideration money and give receipts for per cent stock the same.

3 EVERY power of attorney in force at the time of the passing of this Act Powers of attorney for receipt of dividends on India five per cent stock to apply to India four per cent stock for the receipt of dividends on any India five per cent stock, shall, unless it be legally revoked or become void, remain in force¹ for the purpose of enabling the attorney or attorneys therein named or referred to to receive the dividend to accrue on India four per cent stock, * * * * *

4 EVERY request for the transmission of dividend warrants by post relating to India five per cent stock in force at the time of the passing of this Act, or which may hereafter be made, in pursuance of the Act of the India Stock Dividends Act 1871, shall, unless it be legally revoked or become void, extend and apply to India four per cent stock as if the stock mentioned in such request were therein described as India four per cent stock. Requests for post dividend warrants in respect of India five per cent stock to apply to India four per cent stock.

THE JUDICIAL COMMITTEE ACT, 1881

(44 & 45 Vict., c. 3.)

An Act to further improve the Administration of Justice in the Judicial Committee of the Privy Council

[Preamble Rep (U K) 57 & 58 Vict, c. 56 (S L R)]

[17th February, 1881]

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same as follows

1. EVERY person holding or who has held in England the office of a Lord Justice of Appeal shall, if a member of Her Majesty's Privy Council in England, be a member of the Judicial Committee of the Privy Council. Lords Justices of Appeal to be members of Judicial Committee.

2. THIS Act may be cited as the Judicial Committee Act, 1881

Short title.

¹ The rest of the section was repealed (U K) by 61 & 62 Vict, c. 22 (S L R)

THE INDIA OFFICE (SALE OF SUPERFLUOUS LAND) ACT, 1881.

(44 & 45 Vict., c. 7.)

An Act to authorize the Secretary of State for India in Council to sell a piece of land in Charles Street, Westminster, to the Commissioners of Her Majesty's Works and Public Buildings for the Public Service

[29th March, 1881]

WHEREAS in pursuance of the India Office Site and Approaches Act, 1865, 28 & 29 Vict c 32 the Secretary of State in Council of India purchased certain land, and such land is now vested in Her Majesty, her heirs and successors for the service of the Government of India, according to the provisions of the Act of the session of the twenty-first and twenty-second years of the reign of Her present Majesty, 21 & 22 Vict chapter one hundred and six, intituled "An Act for the better government c 106 of India," in this Act referred to as the India Act, 1858

And whereas that portion of the land so purchased and vested in Her Majesty as aforesaid which is described in the schedule to this Act, and delineated on the plan deposited as in the schedule mentioned, is not required for the service of the Government of India

And whereas the Secretary of State in Council of India has agreed to sell to the Commissioners of Her Majesty's Works and Public Buildings (in this Act referred to as the Commissioners of Works), and the Commissioners of Works have agreed to buy the said portion of land described in the schedule to this Act for the sum of sixty-eight thousand six hundred pounds, to be paid out of moneys provided by Parliament

And whereas it is expedient to provide as hereinafter appearing for carrying into effect the said sale

* * * * *

Short title 1. THIS Act may be cited as the India Office (Sale of Superfluous Land) Act, 1881.

Transfer of site in Charles Street from Indian Secretary to Commissioners of Works 2. As soon as the Commissioners of Works have paid into the Bank of England to the account of the Secretary of State in Council of India the sum of sixty-eight thousand six hundred pounds, the piece of land described in the schedule to this Act, and delineated on the plan deposited as in that schedule mentioned, shall be vested in the Commissioners of Works, and their successors and assigns, for all the estate and interest of Her Majesty therein, and all powers in relation to the said piece of land which, by the India Office Site and Approaches Act, 1865, are vested in Her Majesty, her heirs and successors, shall vest in the Commissioners of Works, their successors and assigns

28 & 29 Vict, c. 32

The Commissioners of Works shall hold the said piece of land for the public service in like manner as if it had been duly purchased by them under the Act of the fifteenth and sixteenth years of the reign of Her present Majesty, chapter twenty-eight, intituled "An Act to amend an Act of the fourteenth and fifteenth years of Her present Majesty for the direction of Pub-

“ lic Works and Buildings, and to vest the buildings appropriated for the
 “ accommodation of the Supreme Court of Justice in Edinburgh in the Com-
 “ missioners of Her Majesty’s Works and Public Buildings ”

Provided that in the event of the sale, exchange, or lease of the said piece of land, or any part thereof, it shall not be necessary for the person who purchases or takes the same in exchange or lease to ascertain that the direction of the Commissioners of Her Majesty’s Treasury has been given to such purchase, exchange, or lease

The receipt of one of Her Majesty’s Principal Secretaries of States or the above-mentioned sum shall be recorded at the Queen’s Remembrancer’s office among the records of the High Court of Justice, and shall be conclusive evidence to any purchaser that the above sum was duly paid, and that the land became under this Act vested in the Commissioners of Works

3. SUCH portion of the piece of land described in the schedule to this Act as, at the time of the passing of this Act, is subject to land tax, shall continue liable thereto until duly discharged, but shall not be assessed to the land tax at a higher value than that at which such land was assessed at the time at which it was purchased in pursuance of the India Office Site and Approaches Act, 1865

4. ALL buildings erected on the land mentioned in the schedule to this Act by or under the direction of the Commissioners of Works shall be exempt from the operation of the Metropolitan Buildings Act, 1855, and any Act amending the same, whether passed before or after the passing of this Act, except so far as any future Act expressly negatives this section

5. ALL moneys received by the Secretary of State in Council of India in pursuance of this Act shall be applied as other moneys received from the sale of land vested in Her Majesty for the service of the Government of India under the India Act, 1858, are by law applicable

21 & 22 Vict ,
 c 106

SCHEDULE

All the piece of land, containing twenty-seven thousand four hundred and forty square feet, or thereabouts, situate in the parish of St Margaret, in the city of Westminster, and abutting on the north on Charles Street, on the west on Delahay Street, on the south on Gardener’s Lane, and on the east on land belonging to the Commissioners of Works, as the same land is delineated on a plan signed by the Right Honourable George John Shaw Lefevre, First Commissioner of Her Majesty’s Works and Public Buildings, and by the Right Honourable Spencer Compton Cavendish, commonly called the Marquis of Hartington, one of Her Majesty’s Principal Secretaries of State, and deposited at the Queen’s Remembrancer’s office among the records of Her Majesty’s High Court of Justice, and coloured red on the said plan

THE EAST INDIAN RAILWAY (REDEMPTION OF ANNUITIES) ACT, 1881

(44 & 45 Vict., c 53)

An Act for making further provision with respect to the Redemption of the Annuity created under the East Indian Railway Company Purchase Act, 1879, and for other purposes

[22nd August, 1881]

[Preamble recites 42 & 43 Vict, c. 206 (hereinafter called the Purchase Act) and 42 & 43 Vict, c 43 (hereinafter called the Redemption Act) Rep. (U. K) 57 & 58 Vict, c 56 (S L R).]

Power to purchase annuities from annuitants by means of India stock

1. (1) THE Secretary of State may purchase by agreement from any holder of the annuity created under the Purchase Act the whole or any part of the annuity held by him, paying in exchange for the same India stock created under this Act at such a rate of exchange that the annual interest on the stock given in exchange for any annuity shall not exceed eight-ninths of the annuity

(2) The annuities purchased under this section shall be registered in the books of the Company in the name of the Secretary of State by his official style, and sections forty-nine and fifty of the Purchase Act shall apply to them as if they were so registered in pursuance of that Act.

Power to create India stock for the purpose of reducing the public debt or liabilities of India

2. (1) THE Secretary of State may from time to time create and issue so much capital stock, bearing interest at the rate of three and a half per centum per annum, or at any other rate not higher than four per centum per annum, as may be required either for the purpose of redeeming the annuities created under the Purchase Act by the purchase thereof under this Act, or for the purpose of redeeming any other liability now charged [or contingently chargeable]¹ on the revenues of India and bearing interest or involving an annual payment at a rate not lower than the interest of the stock so created, subject, nevertheless, to the following provisions —

(a) the difference between the interest or annual payment in respect of the liability redeemed and the interest on the stock created for redemption thereof shall be set aside and invested in manner directed by section fifty-one of the Purchase Act with respect to the amount of annuity retained by the Secretary of State under that Act, so as to provide a sinking fund to be applied in reduction of the public debt of India created under the authority of Parliament

(b) any stock or securities that may be cancelled or redeemed for the purposes of such reduction shall not be re-issued without the authority of Parliament.

¹ The words in square brackets were inserted by 48 & 49 Vict, c. 25, s 25 (2) *post*.

44 & 45 Vict., c. 53.] *The East Indian Railway (Redemption of Annuities) Act, 1881* 549

44 & 45 Vict., c. 57.] *The Regulation of the Forces Act, 1881.*

(c) the amount so set aside shall be sufficient to repay the principal of the stock created at the expiration of the period during which the Secretary of State was liable to pay the interest or annual payment redeemed by means of the creation of the stock, if that period does not exceed ninety-nine years, but if it does exceed ninety-nine years then at the expiration of ninety-nine years from the date of the creation of the stock :

(d) when and so soon as the public debt of India created under the authority of Parliament shall by the operation of the said sinking fund be reduced by an amount equivalent to the amount of the public debt of India, attributable to the redemption effected under this section, any obligation imposed on the Secretary of State under or by virtue of this section shall cease and determine

(2) ALL the provisions of the Redemption Act with respect to the capital stock created or issued under that Act shall apply to the capital stock created or issued under this Act

3 THIS Act may be cited as the East Indian Railway (Redemption of Short title Annuities) Act, 1881

THE REGULATION OF THE FORCES ACT, 1881.

(44 & 45 Vict., c. 57.)

An Act to amend the Law respecting the Regulation of Her Majesty's Forces, and to amend the Army Discipline and Regulation Act, 1879.

[27th August, 1881]

1 55. WHEREAS under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter seventy-four, intituled "An Act to render lawful the enlistment of persons transferred from the Indian to the general forces of Her Majesty, and to provide in certain respects for the rights of such persons," it was provided that where a soldier was transferred from Her Majesty's Indian forces to Her Majesty's general forces it should be lawful for the Commissioners of Chelsea Hospital to calculate the pension of such person in accordance with the regulations either of Her Majesty's Indian or of Her Majesty's general forces, according as such soldier might choose

Pensions of soldiers formerly in Indian force.

And whereas doubts have arisen as to whether certain additions to pensions granted by Royal Warrant to the above-mentioned soldiers in respect of service over and above the term of twenty-one years can, having regard to

¹ This is the only extant section applicable to India. The preamble to the section was repealed (U K) 57 & 58 Vict., c. 56 (S. L. R.)

the above-cited Act, be lawfully granted by the said Commissioners to the said soldiers, and it is expedient to remove such doubts Be it therefore enacted as follows

Nothing in the Act above in this section recited shall prevent the Commissioners of Chelsea Hospital from granting to a soldier such pension as is for the time being authorized by Royal Warrant

— }

THE ARMY ACT

(44 & 45 Vict., c. 58.)

An Act to consolidate the Army Discipline and Regulation Act, 1879, and the subsequent Acts amending the same

[*Printed with amendments subsequently made from a copy printed in accordance with the Army (Annual) Act, 1885 (48 & 49 Vict., c. 8, s. 8 (2)) with the Amendments made down to the passing of the Army (Annual) Act, 1908*]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows —

Preliminary

Short title of Act.

1. THIS Act may be cited for all purposes as the Army Act

Mode of bringing Act into force

2 THIS Act shall continue in force only for such time and subject to such provisions as may be specified in an annual Act of Parliament bringing into force or continuing the same

Division of Act.

3. THIS Act is divided into five parts, relating to the following subject-matters, that is to say,

Part I —Discipline

Part II —Enlistment

Part III —Billeting and impressment of carriages

Part IV —General provisions

Part V —Application of military law, saving provisions, and definitions

PART I

DISCIPLINE

CRIMES AND PUNISHMENTS

Offences in respect of Military Service

Offences in relation to the enemy punishable with death

4 EVERY person subject to military law who commits any of the following offences, that is to say,

(1) Shamefully abandons or delivers up any garrison, place, post or guard, or uses any means to compel or induce any governor

commanding officer, or other person shamefully to abandon or deliver up any garrison, place, post, or guard, which it was the duty of such governor, officer, or person to defend, or

- (2) Shamefully casts away his arms, ammunition, or tools in the presence of the enemy, or
- (3) Treacherously holds correspondence with or gives intelligence to the enemy, or treacherously or through cowardice sends a flag of truce to the enemy; or
- (4) Assists the enemy with arms, ammunition, or supplies, or knowingly harbours or protects an enemy not being a prisoner, or
- (5) Having been made a prisoner of war, voluntarily serves with or voluntarily aids the enemy, or
- (6) Knowingly does when on active service any act calculated to imperil the success of His Majesty's forces or any part thereof, or
- (7) Misbehaves or induces others to misbehave before the enemy in such manner as to show cowardice,

shall, on conviction by court-martial, be liable to suffer death, or such less punishment as is in this Act mentioned

5. EVERY person subject to military law who on active service commits any of the following offences, that is to say,

Offences in relation to the enemy not punishable with death

- (1) Without orders from his superior officer leaves the ranks in order to secure prisoners or horses, or on pretence of taking wounded men to the rear, or
- (2) Without orders from his superior officer wilfully destroys or damages any property, or
- (3) Is taken prisoner, by want of due precaution, or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner fails to rejoin His Majesty's service when able to rejoin the same, or
- (4) Without due authority either holds correspondence or gives intelligence to, or sends a flag of truce to the enemy, or
- (5) By word of mouth, or in writing, or by signals, or otherwise spreads reports calculated to create unnecessary alarm or despondency, or
- (6) In action, or previously to going into action, uses words calculated to create alarm or despondency,

shall, on conviction by court-martial, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned

6. (1) EVERY person subject to military law who commits any of the following offences, that is to say,

Offences punishable more severely on active service than at other times

- (a) Leaves his commanding officer to go in search of plunder, or
- (b) Without orders from his superior officer, leaves his guard, piquet, patrol, or post, or
- (c) Forces a safeguard, or

- (d) Forces or strikes a soldier when acting as sentinels; or
- (e) Impedes the provost marshal or any assistant provost marshal or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of the provost marshal, or, when called on, refuses to assist in the execution of his duty the provost marshal, assistant provost marshal, or any such officer, non-commissioned officer, or other person, or
- (f) Does violence to any person bringing provisions or supplies to the forces, or commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving, or
- (g) Breaks into any house or other place in search of plunder, or
- (h) By discharging firearms, drawing swords, beating drums, making signals, using words or by any means whatever, intentionally occasions false alarms in action, on the march, in the field, or elsewhere, or
- (i) Treacherously makes known the parole, watchword, or countersign to any person not entitled to receive it, or treacherously gives a parole, watchword, or countersign different from what he received, or
- (j) Irregularly detains or appropriates to his own corps battalion, or detachment any provisions or supplies proceeding to the forces, contrary to any orders issued in that respect, or
- (k) Being a soldier acting as sentinel, commits any of the following offences, that is to say,
 - (1) sleeps or is drunk on his post, or
 - (2) leaves his post before he is regularly relieved,

shall, on conviction by court-martial,

if he commits any such offence on active service, be liable to suffer death, or such less punishment as is in this Act mentioned, and if he commits any such offence not on active service be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned

(2) Every person subject to military law who commits any of the following offences, that is to say,

- (a) By discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever, negligently occasions false alarms in action, on the march, in the field, or elsewhere; or
- (b) Makes known the parole, watchword, or countersign to any person not entitled to receive it, or, without good and sufficient cause, gives a parole, watchword, or countersign different from what he received,

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned

Mutiny and Insubordination

7. EVERY person subject to military law who commits any of the following offences, that is to say, Mutiny and
sedition

- (1) Causes or conspires with any other persons to cause any mutiny or sedition in any forces belonging to His Majesty's regular, reserve, or auxiliary forces, or Navy, or
- (2) Endeavours to seduce any person in His Majesty's regular, reserve, or auxiliary forces, or Navy, from allegiance to His Majesty, or to persuade any person in His Majesty's regular, reserve, or auxiliary forces, or Navy, to join in any mutiny or sedition, or
- (3) Joins in, or being present does not use his utmost endeavours to suppress any mutiny or sedition in any forces belonging to His Majesty's regular, reserve, or auxiliary forces, or Navy, or
- (4) Coming to the knowledge of any actual or intended mutiny or sedition in any forces belonging to His Majesty's regular, reserve, or auxiliary forces, or Navy does not without delay inform his commanding officer of the same,

shall, on conviction by court-martial, be liable to suffer death, or such less punishment as is in this Act mentioned

8. (1) EVERY person subject to military law who commits any of the following offences, that is to say, Striking or
threatening
superior
officer

Strikes or uses or offers any violence to his superior officer, being in the execution of his office,

shall, on conviction by court-martial, be liable to suffer death, or such less punishment as is in this Act mentioned, and

(2) Every person subject to military law who commits any of the following offences, that is to say,

Strikes or uses or offers any violence to his superior officer, or uses threatening or insubordinate language to his superior officer,

shall, on conviction by court-martial, if he commits such offence on active service, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned, and

if he commits such offence not on active service, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned

9. (1) EVERY person subject to military law who commits the following offence, that is to say, Disobedience
to superior
officer

disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the exe-

cution of his office, whether the same is given orally, or in writing, or by signal, or otherwise,

shall, on conviction by court-martial, be liable to suffer death, or such less punishment as is in this Act mentioned, and

(2) Every person subject to military law who commits the following offence, that is to say,

Disobeys any lawful command given by his superior officer, shall, on conviction by court-martial, if he commits such offence on active service, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned, and

if he commits such offence not on active service, be liable, if an officer to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned

Insubordina-
tion

10. EVERY person subject to military law who commits any of the following offences, that is to say,

(1) Being concerned in any quarrel, fray, or disorder, refuses to obey any officer (though of inferior rank) who orders him into arrest, or strikes or uses or offers violence to any such officer, or

(2) Strikes or uses or offers violence to any person, whether subject to military law or not, in whose custody he is placed, and whether he is or is not his superior officer, or

(3) resists an escort whose duty it is to apprehend him or to have him in charge, or

(4) Being a soldier, breaks out of barracks, camp, or quarters, shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned

Neglect to
obey garrison
or other
orders.

11 EVERY person subject to military law who commits the following offence, that is to say,

neglects to obey any general or garrison or other orders, shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned

Provided that the expression "general orders" in this section shall not include His Majesty's regulations and orders for the army or any similar order in the nature of a regulation published for the general information and guidance of the army

Desertion, Fraudulent Enlistment, and absence without leave

Desertion

12. (1) EVERY person subject to military law who commits any of the following offences, that is to say,

(a) Deserts or attempts to desert His Majesty's service, or

- (b) persuades, endeavours to persuade, procures or attempts to procure, any person subject to military law to desert from His Majesty's service,

shall, on conviction by court-martial—

if he committed such offence when on active service or under orders for active service, be liable to suffer death, or such less punishment as is in this Act mentioned, and

if he committed such offence under any other circumstances, be liable for the first offence to suffer imprisonment, or such less punishment as is in this Act mentioned, and for the second or any subsequent offence to suffer penal servitude, or such less punishment as is in this Act mentioned

(2) Where an offender has fraudulently enlisted once or oftener, he may for the purposes of trial for the offence of deserting or attempting to desert His Majesty's service, be deemed to belong to any one or more of the corps to which he has been appointed or transferred as well as to the corps to which he properly belongs, and it shall be lawful to charge an offender with any number of offences against this section at the same time, and to give evidence of such offences against him, and if he be convicted thereof to punish him accordingly, and further it shall be lawful on conviction of a person for two or more such offences to award him the higher punishment allowed by this section for a second offence as if he had been convicted by a previous court-martial of one of such offences

(3) For the purposes of the liability under this section to the higher punishment for a second offence, a previous offence of fraudulent enlistment may be reckoned as a previous offence under this section

13 (1) EVERY person subject to military law who commits any of the following offences, that is to say, Fraudulent enlistment

(a) When belonging to either the regular forces, or the militia or territorial force when embodied, or the yeomanry when called out for actual military service, without having obtained a regular discharge therefrom, or otherwise fulfilled the conditions enabling him to enlist or enrol, enlists or enrolls himself in His Majesty's regular forces or in any force raised in India or a colony,

(b) When belonging to the regular forces without having fulfilled the conditions enabling him to enlist, enrol, or enter, enrolls himself, or enlists in the militia or territorial force or in any of the reserve forces, * * * *¹ or enters the Royal Navy,

¹ The words "not subject to military law" were repealed by the Army (Annual) Act, 1909 (9 Edw 7, c 3), s 10 (3) see *infra*

shall be deemed to have been guilty of fraudulent enlistment, and shall, on conviction by court-martial, be liable—

- (i) for the first offence to suffer imprisonment, or such less punishment as is in this Act mentioned, and
- (ii) for the second or any subsequent offence to suffer penal servitude, or such less punishment as is in this Act mentioned

(2) Where an offender has fraudulently enlisted on several occasions he may, for the purposes of this section, be deemed to belong to any one or more of the corps to which he has been appointed or transferred, as well as to the corps to which he properly belongs, and it shall be lawful to charge an offender with any number of offences against this section at the same time, and to give evidence of such offences against him, and if he be convicted thereof to punish him accordingly, and further it shall be lawful on conviction of a person for two or more such offences to award him the higher punishment allowed by this section for a second offence as if he had been convicted by a previous court-martial of one of such offences

(3) Where an offender is convicted of the offence of fraudulent enlistment, then for the purposes of his liability under this section to the higher punishment for a second offence, the offence of deserting or attempting to desert His Majesty's service may be reckoned as a previous offence of fraudulent enlistment under this section, with this exception, that the absence of the offender next before any fraudulent enlistment shall not upon his conviction for that fraudulent enlistment be reckoned as a previous offence of deserting or attempting to desert.

Persuasion of
or connivance
at desertion.

14. Every person subject to military law who commits any of the following offences, that is to say,

- (1) Assists any person subject to Military law to desert His Majesty's service, or
- (2) Being cognizant of any desertion or intended desertion of a person subject to military law, does not forthwith give notice to his commanding officer, or take any steps in his power to cause the deserter or intending deserter to be apprehended,

shall, on conviction by court-martial, be liable to suffer imprisonment, or such less punishment as is in this Act mentioned

Absence from
duty without
leave

15 EVERY person subject to military law who commits any of the following offences, that is to say,

- (1) Absents himself without leave; or
- (2) Fails to appear at the place of parade or rendezvous appointed by his commanding officer, or goes from thence without leave before he is relieved, or without urgent necessity quits the rank, or
- (3) Being a soldier, when in camp or garrison or elsewhere, is found beyond any limits fixed or in any place prohibited by any general

- (5) Is guilty of any other offence of a fraudulent nature not before in this Act particularly specified, or of any other disgraceful conduct of a cruel, indecent or unnatural kind,

shall, on conviction by court-martial, be liable to suffer imprisonment, or such less punishment as is in this Act mentioned

Drunkenness

Drunkenness 19 EVERY person subject to military law who commits the following offence, that is to say,

The offence of drunkenness, whether on duty or not on duty, shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned, and, either in addition to or in substitution for any other punishment, to pay a fine not exceeding one pound

Offences in relation to Prisoners

**Permitting
escape of
prisoner**

20 EVERY person subject to military law who commits any of the following offences, that is to say,

- (1) when in command of a guard, piquet, patrol, or post, releases without proper authority, whether wilfully or otherwise, any person committed to his charge, or
- (2) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer penal servitude, or such less punishment as is in this Act mentioned, and in any case to suffer imprisonment or such less punishment as is in this Act mentioned

**Irregular im-
prisonment.**

21 EVERY person subject to military law who commits any of the following offences; that is to say,

- (1) Unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation, or
- (2) Having committed a person to the custody of any officer, non-commissioned officer, provost marshal, or assistant provost marshal, fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within twenty-four hours thereafter to the officer, non-commissioned officer, provost marshal, or assistant provost marshal, into whose custody the person is committed, an account in writing signed by himself of the offence with which the person so committed is charged,

- (3) Being in command of a guard, does not as soon as he is relieved from his guard or duty, or if he is not sooner relieved, within twenty-four hours after a person is committed to his charge, give in writing to the officer to whom he may be ordered to report that person's name and offence so far as known to him, and the name and rank of the officer or other person by whom he was charged, accompanied, if he has received the account above in this section mentioned, by that account,

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned

22 EVERY person subject to military law who commits the following offence, that is to say, Escape from confinement.

Being in arrest or confinement, or in prison or otherwise in lawful custody, escapes, or attempts to escape,

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned

Offences in relation to Property

23. EVERY person subject to military law who commits any of the following offences, that is to say, Corrupt dealings in respect of supplies to forces

- (1) Connives at the exaction of any exorbitant price for a house or stall let to a sutler, or
- (2) Lays any duty upon, or takes any fee or advantage in respect of, or is in any way interested in the sale of provisions or merchandise brought into any garrison, camp, station, barrack, or place in which he has any command or authority, or the sale or purchase of any provisions or stores for the use of any of His Majesty's forces,

shall, on conviction by court-martial, be liable to suffer imprisonment, or such less punishment as is in this Act mentioned

24. EVERY soldier who commits any of the following offences, that is to say, Deficiency in and injury to equipment.

- (1) Makes away with, or is concerned in making away with (whether by pawning, selling, destruction, or otherwise howsoever), his arms, ammunition, equipments, instruments, clothing, regimental necessaries, or any horse of which he has charge, or
 - (2) Loses by neglect anything before in this section mentioned, or
 - (3) Makes away with (whether by pawning, selling, destruction, or otherwise howsoever) any military decoration granted to him.
- or

shall be liable, on conviction by court-martial, to suffer imprisonment, or such less punishment as is in this Act mentioned

Offences in relation to Billeting

Offences in
relation to
billeting

30. EVERY person subject to military law who commits any of the following offences (in this Act referred to as offences in relation to billeting), that is to say,

- (1) Is guilty of any ill-treatment, by violence, extortion, or making disturbances in billets, of the occupier of a house in which any person or horse is billeted, or
- (2) Being an officer, refuses or neglects, on complaint and proof of such ill-treatment by any officer or soldier under his command to cause compensation to be made for the same, or
- (3) Fails to comply with the provisions of this Act with respect to the payment of the just demands of the person on whom he or any officer or soldier under his command, or his or their horses have been billeted, or to the making up and transmitting of an account of the money due to such person; or
- (4) Wilfully demands billets which are not actually required for some person or horse entitled to be billeted, or
- (5) Takes or knowingly suffers to be taken from any person any money or reward for excusing or relieving any person from his liability in respect of the billeting or quartering of officers, soldiers or horses, or any part of such liability, or
- (6) Uses or offers any menace to or compulsion on a constable or other civil officer to make him give billets contrary to this Act, or tending to deter or discourage him from performing any part of his duty under the provisions of this Act relating to billeting, or tending to induce him to do anything contrary to his said duty; or
- (7) Uses or offers any menace to or compulsion on any person tending to oblige him to receive, without his consent, any person or horse not duly billeted upon him in pursuance of the provisions of this Act relating to billeting, or to furnish any accommodation which he is not thereby required to furnish,

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier to suffer imprisonment, or such less punishment, as is in this Act mentioned

Offences in relation to Impressment of Carriages

Offences in
relation to
the impress-
ment of car-

31 EVERY person subject to military law who commits any of the following offences (in this Act referred to as offences in relation to the impressment of carriages), that is to say

- (1) Wilfully demands any carriages, animals, or vessels which are not actually required for the purposes authorised by this Act, or ^{riages, and their atten-} dants,
- (2) Fails to comply with the provisions of this Act relating to the impressment of carriages as regards the payment of sums due for carriages or as regards the weighing of the load, or
- (3) Constrains any carriage, animal, or vessel furnished in pursuance of the provisions of this Act relating to the impressment of carriages to travel against the will of the person in charge thereof beyond the proper distance, or to carry against the will of such person any greater weight than he is required by the said provision to carry, or
- (4) Does not discharge as speedily as practicable any carriage, animal, or vessel furnished in pursuance of the provisions of this Act relating to the impressment of carriages, or
- (5) Compels the person in charge of any such carriage, animal, or vessel, or permits him to be compelled, to take thereon any baggage or stores not entitled to be carried, or, except where the carriage or animal is furnished upon a requisition of emergency, to take thereon any soldier or servant (except such as are sick), or any woman or person, or
- (6) Ill-treats or permits such person in charge to be ill-treated, or
- (7) Uses or offers any menace to or compulsion on a constable to make him provide any carriage, animal, or vessel which he is not bound in pursuance of the provisions of this Act relating to the impressment of carriages to provide, or tending to deter or discourage him from performing any part of his duty in relation to the providing of carriages, animals, or vessels, or tending to induce him to do anything contrary to his said duty, or
- (8) Forces any carriage, animal, or vessel from the owner thereof,

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Offences in relation to Enlistment

32. (1) EVERY person having become subject to military law, who is discovered to have committed the following offence, that is to say,

Having been discharged with disgrace from any part of His Majesty's forces, or having been dismissed with disgrace from the Navy, has afterwards enlisted in the regular forces without declaring the circumstances of his discharge, or dismissal,

shall, on conviction by court-martial, be liable to suffer imprisonment, or such less punishment as is in this Act mentioned

(2) For the purpose of this section, the expression "discharged with disgrace from any part of His Majesty's forces" means discharged

ignominy, discharged as incorrigible and worthless, discharged for misconduct, or discharged on account of conviction for felony or of a sentence of penal servitude.

False answers
or declara-
tions on
enlistment

33. EVERY person having become subject to military law who is discovered to have committed the following offence, that is to say,

To have made a wilfully false answer to any question set forth in the attestation paper which has been put to him by or by direction of the justice before whom he appears for the purpose of being attested,

shall, on conviction by court-martial, be liable to suffer imprisonment or such less punishment as is in this Act mentioned

General
offences in
relation to
enlistment.

34 EVERY person subject to military law who commits any of the following offences, that is to say,

(1) Is concerned in the enlistment for service in the regular forces of any man, when he knows or has reasonable cause to believe such man to be so circumstanced that by enlisting he commits an offence against this Act, or

(2) Wilfully contravenes any enactments or the regulations of the service in any matter relating to the enlistment or attestation of soldiers of the regular forces,

shall, on conviction by court-martial, be liable to suffer imprisonment, or such less punishment as is in this Act mentioned

Miscellaneous Military Offences

Traitorous
words

35 EVERY person subject to military law who commits the following offence, that is to say,

Uses traitorous or disloyal words regarding the Sovereign, shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier to suffer imprisonment or such less punishment as is in this Act mentioned

Injurious
disclosures.

36 EVERY person subject to military law who commits the following offence, that is to say,

Whether serving with any of His Majesty's forces or not, without due authority, either verbally or in writing, or by signal or otherwise, discloses the numbers or position of any forces, or any magazines or stores thereof, or any preparations for, or orders relating to, operations or movements of any forces, at such time and in such manner as in the opinion of the court to have produced effects injurious to His Majesty's service,

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

37. EVERY officer or non-commissioned officer who commits any of the following offences, that is to say, Ill-treating soldier

- (1) Strikes or otherwise ill-treats any soldier, or
- (2) Having received the pay of any officer or soldier, unlawfully detains or unlawfully refuses to pay the same when due,

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a non-commissioned officer, to suffer imprisonment or such less punishment as is in this Act mentioned

38. EVERY person subject to military law who commits any of the following offences, that is to say, Duelling and attempting to commit suicide

- (1) Fights, or promotes, or is concerned in or connives at fighting a duel, or
- (2) Attempts to commit suicide,

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned

39. EVERY person subject to military law who commits any of the following offences, that is to say, Refusal to deliver to civil power officers and soldiers accused of civil offences

On application being made to him neglects or refuses to deliver over to the civil magistrate, or to assist in the lawful apprehension of, any officer or soldier accused of an offence punishable by a civil court

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier to suffer imprisonment, or such less punishment as is in this Act mentioned.

40. EVERY person subject to military law who commits any of the following offences, that is to say, Conduct to prejudice of military discipline

Is guilty of any act, conduct, disorder, or neglect to the prejudice of good order and military discipline,

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned

Provided that no person shall be charged under this section in respect of any offence for which special provision is made in any other part of this Act, and which is not a civil offence, nevertheless the conviction of a person so charged shall not be invalid by reason only of the charge being in contravention of this proviso, unless it appears that injustice has been done to the person charged by reason of such contravention, but the responsibility of any officer for that contravention shall not be removed by the validity of the conviction.

Offences punishable by ordinary Law

41. SUBJECT to such regulations for the purpose of preventing interference with the jurisdiction of the civil courts as are in this Act after mentioned, Offences punishable by

ordinary law of England every person, who, whilst he is subject to military law, shall commit any of the offences in this section mentioned shall be deemed to be guilty of an offence against military law, and if charged under this section with any such offence (in this Act referred to as a civil offence) shall be liable to be tried by court-martial, and on conviction to be punished as follows, that is to say,

- (1) If he is convicted of treason, be liable to suffer death, or such less punishment as is in this Act mentioned, and
- (2) If he is convicted of murder, be liable to suffer death, and
- (3) If he is convicted of manslaughter or treason-felony, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned, and
- (4) If he is convicted of rape, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned, and
- (5) If he is convicted of any offence not before in this section particularly specified, which when committed in England is punishable by the law of England, be liable, whether the offence is committed in England or elsewhere, either to suffer such punishment as might be awarded to him in pursuance of this Act in respect of an act to the prejudice of good order and military discipline, or to suffer any punishment assigned for such offence by the law of England

Provided as follows —

- (a) A person subject to military law shall not be tried by court-martial for treason, murder, manslaughter, treason-felony, or rape committed in the United Kingdom, and shall not be tried by court-martial for treason, murder, manslaughter, treason-felony, or rape committed in any place within His Majesty's dominions, other than the United Kingdom and Gibraltar, unless such person at the time he committed the offence was on active service, or such place is more than one hundred miles as measured in a straight line from any city or town in which the offender can be tried for such offence by a competent civil court,
- (b) A person subject to military law when in His Majesty's dominions may be tried by any competent civil court for any offence for which he would be triable if he were not subject to military law

Redress of Wrongs

Mode of complaint by officer

42. If an officer thinks himself wronged by his commanding officer, and on due application made to him does not receive the redress to which he may consider himself entitled, he may complain to ¹ [the Army Council] in order to obtain justice, who is hereby required to examine into such complaint, and

¹ These words were substituted for the word "the Commander in Chief" by the Army (Annual) Act, 1909 (9 Edw 7 c 3), Pt II, *infra*

through a Secretary of State make his report to His Majesty in order to receive the directions of His Majesty thereon

43. If any soldier thinks himself wronged in any matter by any officer other than his captain, or by any soldier he may complain thereof to his captain, and if he thinks himself wronged by his captain, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to his commanding officer, and if he thinks himself wronged by his commanding officer, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to the prescribed general officer or in the case of a soldier serving in India, to such officer as the Commander-in-Chief of the Forces in India with the approval of the Governor-General of India in Council may appoint, and every officer to whom a complaint is made in pursuance of this section shall cause such complaint to be inquired into, and shall, if on inquiry he is satisfied of the justice of the complaint so made, take such steps as may be necessary for giving full redress to the complainant in respect of the matter complained of

Mode of complaint by soldier

Punishments

44. Punishments may be inflicted in respect of offences committed by persons subject to military law and convicted by courts-martial,—

Scale of punishments by courts-martial

In the case of officers, according to the scale following

- (a) Death,
- (b) Penal servitude for a term not less than three years,
- (c) Imprisonment with or without hard labour, for a term not exceeding two years,
- (d) Cashiering,
- (e) Dismissal from His Majesty's service,
- (f) Forfeiture in the prescribed manner of seniority of rank, either in the army or in the corps to which the offender belongs, or in both,
- (g) Reprimand, or severe reprimand,

In the case of soldiers, according to the scale following

- (h) Death,
- (i) Penal servitude for a term not less than three years,
- (k) Imprisonment, with or without hard labour, for a term not exceeding two years,
- (kk) Detention for a term not exceeding two years;
- (l) Discharge with ignominy from His Majesty's service:
- (m) In the case of a non-commissioned officer, forfeiture, in the prescribed manner, of seniority of rank, or reduction to a lower grade in the ranks,
- (n) Forfeitures, fines, and stoppages

Provided that—

- (1) Where in respect of any offence under this Act a particular punishment or such less punishment is prescribed

mentioned, there may be awarded in respect of that offence, instead of such particular punishment (but subject to the other regulations of this Act as to punishments, and regard being had to the nature and degree of the offence) any one punishment lower in the above scales than the particular punishment

- (1 A) For the purposes of commutation and revision of punishment, detention shall not be deemed to be a less punishment than imprisonment if the term of detention is longer than the term of imprisonment
- (2) An officer shall be sentenced to be cashiered before he is sentenced to penal servitude or imprisonment
- (3) An officer when sentenced to forfeiture of seniority of rank may also be sentenced to reprimand or severe reprimand
- (4) A soldier when sentenced to penal servitude or imprisonment may, in addition thereto, be sentenced to be discharged with ignominy from His Majesty's service
- (5) Where a soldier on active service is guilty of any offence, it shall be lawful for a court-martial to award for that offence such field punishment, other than flogging, as may be directed by rules to be made from time to time by a Secretary of State, and such field punishment shall be of the character of personal restraint or of hard labour, but shall not be of a nature to cause injury to life or limb
- (6) In addition to or without any other punishment in respect of an offence committed by a soldier on active service, it shall be lawful for a court-martial to order that the offender forfeit all ordinary pay for a period commencing on the day of the sentence and not exceeding three months

[Subsections 7, 8, *rep* 7 *Edw* 7, c. 2]

- (9) All rules with respect to field punishment made in pursuance of this section shall be laid before Parliament as soon as practicable after they are made, if Parliament be then sitting, and if Parliament be not then sitting, as soon as practicable after the beginning of the then next session of Parliament
- (10) For the purpose of commutation of punishment the field punishment above mentioned shall be deemed to stand in the scale of punishments next below detention
- (11) In addition to or without any other punishment in respect of any offence, an offender convicted by court-martial may be subject to forfeiture of any deferred pay, service towards pension, military decoration or military reward, in such manner as may for the time being be provided by Royal Warrant, but shall not save as may be provided by Royal Warrant, be liable to any forfeiture under the Regimental Debts Act, 1893 or under any Act relating to the

military savings banks, or any regulations made in pursuance of either of the above-mentioned Acts

[sec 52 & 53
Vict, c 63
s 38 (1)]

- (12) In addition to or without any other punishment in respect of any offence, an offender may be sentenced by court-martial to any deduction authorised by this Act to be made from his ordinary pay
- (13) No officer or non-commissioned officer shall, under or by virtue of any power or authority derived from any foreign potentate or ruler, inflict or cause to be inflicted on any person subject to military law under this Act, for or in respect of any offence against such law, any punishment not authorised by this Act

ARREST AND TRIAL

Arrest

45 The following regulations shall be enacted with respect to persons subject to military law when charged with offences punishable under this Act —

Custody of
persons
charged with
offences

- (1) Every person subject to military law when so charged may be taken into military custody. Provided, that in every case where any officer or soldier not on active service remains in such military custody for a longer period than eight days without a court-martial for his trial being ordered to assemble, a special report of the necessity for further delay shall be made by his commanding officer in manner prescribed and a similar report shall be forwarded every eight days until a court-martial is assembled or the officer or soldier is released from custody.
- (2) Military custody means, according to the usages of the service, the putting the offender under arrest or the putting him in confinement.
- (3) An officer may order into military custody an officer of inferior rank or any soldier, and any non-commissioned officer may order into military custody any soldier, and an officer may order into military custody any officer (though he be of higher rank) engaged in a quarrel, fray, or disorder, and any such order shall be obeyed notwithstanding the person giving the order and the person in respect of whom the order is given do not belong to the same corps, arm, or branch of the service.
- (4) An officer or non-commissioned officer commanding a guard or a provost marshal or assistant provost marshal, shall not receive or keep any person who is committed to his custody by any officer or non-commissioned officer, but it shall be the duty of the officer or non-commissioned officer who commits any person into custody to deliver at the time of such commitment, or as soon as practicable, and in every case within twenty-four hours

thereafter, to the officer, non-commissioned officer, provost marshal, or assistant provost marshal into whose custody the person is committed, an account in writing, signed by himself, of the offence with which the person so committed is charged

- (5) The charge made against every person taken into military custody shall without unnecessary delay be investigated by the proper military authority, and, soon as may be, either proceedings shall be taken for punishing the offence, or such persons shall be discharged from custody

Power of Commanding Officer

Power of
commanding
officer

46 —(1) The commanding officer shall, upon an investigation being had of a charge made against a person subject to military law under his command of having committed an offence under this Act, dismiss the charge, if he in his discretion thinks that it ought not to be proceeded with, but where he thinks the charge ought to be proceeded with, he may take steps for bringing the offender to court-martial, or in the case of a soldier may deal with the case summarily

(2) Where he deals with a case summarily, he may—

- (a) Award to the offender detention for any period not exceeding ¹[twenty-eight] days, and
- (b) In the case of the offence of drunkenness, may order the offender to pay a fine not exceeding ten shillings, either in addition to or without detention, and
- (c) In addition to or without any other punishment may order the offender to suffer any deduction from his ordinary pay authorised by this Act to be made by the commanding officer, and
- (d) In the case of an offence by a soldier (not being a non-commissioned officer) on active service, may award to the offender field punishment within the meaning of section forty-four of this Act for any period not exceeding ¹twenty-eight days, and may in addition to, or without any other punishment, order that the offender forfeit all ordinary pay for a period commencing on the day of the sentence and not exceeding twenty-eight days

(3) Where the charge is against a soldier for drunkenness the commanding officer shall deal with the case summarily unless the offence was committed on active service or on duty, or after the offender was warned for duty, or unless by reason of the drunkenness the offender was found unfit for duty, or unless the soldier has been guilty of drunkenness on not less than four occasions in the preceding twelve months, but nothing in this sub-section shall affect the jurisdiction of any court-martial or the right of the soldier to be tried by a district court-martial

¹ Substituted for "fourteen" by s. 1 of the Army (Annual) Act, 1910 (10 Edw. 7, c. 6) Vol. II, *see infra*

[*Sub-section (4) —Rep, Army (Annual) Act, 1910 (10 Edw 7) c 6*]

(5) Provided that where detention is awarded for absence without leave the commanding officer shall have regard to the number of days during which the offender has been absent, and in no case shall the term of detention awarded if exceeding seven days, exceed the term of absence

(6) Provided that in every case where the commanding officer has power to deal with the case summarily, the accused person may demand that the evidence against him should be taken on oath, and the same oath or solemn declaration as that required to be taken by witnesses before a court-martial shall be administered to each witness in such case

(7) An offender shall not be liable to be tried by court-martial for any offence which has been dealt with summarily by his commanding officer, and shall not be liable to be punished by his commanding officer for any offence of which he has been acquitted or convicted by a competent civil court or by a court-martial

(8) Where a commanding officer has power to deal with a case summarily under this section, and, after hearing the evidence, considers that he may so deal with the case, he shall, in every case where the award or finding involves a forfeiture of pay, and in every other case, unless he awards one of the minor punishments referred to in this section, ask the soldier charged whether he desires to be dealt with summarily or to be tried by a district court-martial and if the soldier elects to be tried by a district court-martial the commanding officer shall take steps for bringing him to trial by a district court-martial, but otherwise shall proceed to deal with the case summarily.

(9) Nothing in this section shall prejudice the power of a commanding officer to award such minor punishments as he is for the time being authorised to award, so, however, that a minor punishment shall not be awarded for any offence for which detention exceeding seven days is awarded

a captain is not, with due regard to the public service, available, in any of which cases an officer of any rank may be president

(5) A regimental court-martial shall not try an officer, nor award the punishment of death, penal servitude, or imprisonment, or of detention in excess of forty-two days, or of discharge with ignominy, but, subject as aforesaid, and save as in this Act specially mentioned, any offence under this Act committed by a person subject to military law, and triable by court-martial, may be tried and punished by a regimental court-martial

48. The following rules are enacted with respect to general courts-martial and district courts-martial —

General and
district
courts
martial

- (1) A general court-martial shall be convened by His Majesty or some officer deriving authority to convene a general court-martial immediately or mediately from His Majesty
- (2) A district court-martial shall be convened by an officer authorised to convene general courts-martial, or some officer deriving authority to convene a district court-martial from an officer authorised to convene general courts-martial
- (3) A general court-martial shall consist in the United Kingdom, India, Malta, and Gibraltar of not less than nine and elsewhere of not less than five officers, each of whom must have held a commission during not less than three whole years, and of whom not less than five must be of a rank not below that of captain
- (4) A district court-martial shall consist of not less than three officers, each of whom must have held a commission during not less than two whole years
- (5) The minimum number mentioned in this section for a general or a district court-martial shall be the legal minimum for that court-martial
- (6) A district court-martial shall not try a person subject to military law as an officer, nor award the punishment of death or penal servitude but, subject as aforesaid, any offence under this Act committed by a person subject to military law, and triable by court-martial, may be tried and punished by either a general or district court-martial
- (7) An officer under the rank of captain shall not be a member of a court-martial for the trial of a field officer
- (8) Sentence of death shall not be passed on any prisoner without the concurrence of two-thirds at the least of the officer serving on the court-martial by which he is tried
- (9) The president of a court-martial, whether general or district, shall be appointed by order of the authority convening the court, but he shall not be under the rank of field officer, unless the officer convening the court is under that rank, or unless in the opinion of the officer who convenes the court, such opinion to be expressed in the order convening the court and to be conclusive, a field

sentence which a general court-martial is competent to award for such offence. Provided always, that no sentence of any such court-martial shall be executed until confirmed as provided by this Act

Courts-
martial in
general.

50.—(1) The officers sitting on a court-martial may belong to the same or different corps, or may be unattached to any corps, and may try persons belonging or attached to any corps

(2) The officer who convened a court-martial shall not, save as is otherwise expressly provided by this Act, sit on that court-martial

(3) Any of the following persons, that is to say, a prosecutor or witness for the prosecution of any accused, or the commanding officer of the accused within the meaning of the provisions of this Act which relate to dealing with a case summarily, or the officer who investigated the charges on which an accused is arraigned, shall not, save in the case of a field general court-martial sit on the court-martial for the trial of such accused, nor shall he act as judge advocate at such court-martial

Challenges
by prisoner

51.—(1) An accused about to be tried by any court-martial may object, for any reasonable cause, to any member of the court, including the president, whether appointed to serve thereon originally or to fill a vacancy caused by the retirement of an officer objected to, so that the court may be constituted of officers to whom the accused makes no reasonable objection

(2) Every objection made by an accused to any officers shall be submitted to the other officers appointed to form the court

(3) If the objection is to the president, such objection, if allowed by one-third or more of the other officers appointed to form the court, shall be allowed, and the court shall adjourn for the purpose of the appointment of another president

(4) If an objection to the president is allowed, the authority convening the court shall appoint another president, subject to the same right of the accused to object

(5) If the objection is to a member other than the president and is allowed by one half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object

(6) In order to enable an accused to avail himself of his privilege of objecting to any officer, the names of the officers appointed to form the court shall be read over in the hearing of the accused on their first assembling, and before they are sworn, and he shall be asked whether he objects to any of such officers, and a like question shall be repeated in respect of any officer appointed to serve in lieu of a retiring officer

Administra-
tion of oaths

52.—(1) An oath shall be administered by the prescribed person to every member of every court-martial before the commencement of the trial in the following form, that is to say,

' You do swear that you will well and truly
' try the accused persons before the court according to the evidence, and that

' you will duly administer justice according to the Army Act now in force, without partiality, favour, or affection, and you do further swear that you will not divulge the sentence of the court until it is duly confirmed, and you do further swear that you will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law So help you GOD '

(2) An oath in the prescribed form or forms shall be administered by the prescribed person to the judge advocate or person officiating as judge advocate (if any), and also to every officer in attendance on a court-martial for the purpose of instruction (if any), and also to every shorthand writer (if any) in attendance on the court-martial

(3) Every witness before a court-martial shall be examined on oath, which the president or other prescribed person shall administer in the prescribed form

(4) If a person by this Act required either as a member of, or person in attendance on, or witness before a court-martial, or otherwise in respect of a court-martial, to take an oath, objects to take an oath, or is objected to as incompetent to take an oath, the court, if satisfied of the sincerity of the objection, or, where the competence of the person to take an oath is objected to, of the oath having no binding effect on the conscience of such person, shall permit such person instead of being sworn to make a solemn declaration in the prescribed form, and for the purposes of this Act such solemn declaration shall be deemed to be an oath

53.—(1) If a court-martial after the commencement of the trial is, by Procedure death or otherwise, reduced below the legal minimum, it shall be dissolved

(2) If after the commencement of the trial the president dies or is otherwise unable to attend, and the court is not reduced below the legal minimum, the convening authority may appoint the senior member of the court, if of sufficient rank, to be president, and the trial shall proceed accordingly, but if he is not of sufficient rank the court shall be dissolved

(3) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved

(4) Where a court-martial is dissolved under the foregoing provisions of this section the accused may be tried again

(5) The president of any court-martial may, on any deliberation amongst the members, cause the court to be cleared of all other persons

(6) The court may adjourn from time to time

(7) The court may also, where necessary, view any place

(8) In the case of an equality of votes on the finding the accused shall be deemed to be acquitted In the case of an equality of votes on the sentence or any question arising after the commencement of the trial except the finding, the president shall have a second or casting vote

(9) When a court-martial recommend a person under sentence to mercy, such recommendation shall be attached to and form part of the proceeding

of the court, and shall be promulgated and communicated to the person under sentence, together with the finding sentence

Confirmation
revision, and
approval of
sentences.

54.—(1) The following authorities shall have power to confirm the findings and sentences of court-martial, that is to say,

- (a) In the case of a regimental court-martial, the convening officer or officer having authority to convene such a court-martial at the date of the submission of the finding and sentence thereof
- (b) In the case of a general court-martial, His Majesty, or some officer deriving authority to confirm the findings and sentences of general courts-martial immediately or mediately from His Majesty
- (c) In the case of a district court-martial, an officer authorised to convene general courts-martial, or some officer deriving authority to confirm the findings and sentences of district courts-martial from an officer authorised to convene general courts-martial
- (d) In the case of a field general court-martial, an officer authorised to confirm the findings and sentences of general courts-martial for the trial of offences in the force of which the detachment or portion of troops under the command of the convening officer forms part, or, where the offence was committed on active service, any such officer as may under the rules made in pursuance of this Act be authorised to confirm the findings and sentences of the field general court-martial awarding the sentence Provided that a sentence of death or penal servitude awarded by a field general court-martial shall not be carried into effect, unless or until it has been confirmed by the general or field officer commanding the force with which the person under sentence is present at the date of his sentence

(2) The authority having power to confirm the finding and sentence of a court-martial may send back such finding and sentence, or either of them, for revision once, but not more than once, and it shall not be lawful for the court on any revision to receive any additional evidence, and where the finding only is sent back for revision, the court shall have power without any direction to revise the sentence also In no case shall the authority recommend the increase of a sentence, nor shall the court-martial on revisal of the sentence, either in obedience to the recommendation of an authority, or for any other reason, have the power to increase the sentence awarded

(3) The finding of acquittal, whether on all or some of the offences with which the accused is charged, shall not require confirmation or be subject to be revised, and if it relates to the whole of the offences shall be pronounced at once in open court, and the accused shall be discharged

(4) A member of a court-martial shall not have authority to confirm the finding or sentence of that court-martial, and where a member of a court-martial becomes confirming officer he shall refer the finding and sentence of the court-martial to a superior authority competent to confirm the findings

and sentences of the like description of courts-martial, and that authority shall, for the purposes of this Act, be deemed to be in that instance the confirming authority, and where a court-martial is held in a colony, and there is no such superior authority in that colony, the governor of that colony shall have power to confirm the finding and sentence of such court-martial in like manner in all respects as if he were such superior authority as above mentioned. Provided that where a member of a field general court-martial trying an accused would but for his being a member of the court have power to confirm the finding and sentence of the court, and is of opinion that it is not practicable, having due regard to the public service, to delay the case for the purpose of referring it to any other officer, he may confirm the finding and sentence.

(5) An officer having authority to confirm the finding and sentence of a court-martial may withhold his confirmation wholly or partly, and refer such finding and sentence or the part not confirmed to any superior authority competent to confirm the findings and sentences of the like description of courts-martial, and that authority shall for the purposes of this Act be deemed to be in that instance and to the extent of such reference the confirming authority.

(6) Subject to the provisions of this Act with respect to the finding of acquittal, the finding and sentence of a court-martial shall not be valid except in so far as the same may be confirmed by an authority authorised to confirm the same.

(7) Sentence of death when passed in a colony shall not, unless passed in respect of an offence committed on active service, be carried into effect, unless, in addition to the confirmation otherwise required by this Act, it is approved by the governor of the colony.

(8) Sentence of death when passed in India in respect of the offence of treason or murder shall not (except where the offence was committed on active service) be carried into effect, unless, in addition to the confirmation otherwise required by this Act, it is approved by the Governor-General.

(9) When a person subject to military law is convicted of manslaughter, or rape, or any other civil offence under the section of this Act relating to the trial by court-martial of civil offences, and is sentenced to penal servitude, such sentence shall not be carried into execution unless, in addition to the confirmation otherwise required by this Act, it is approved, if the offender has been tried in India, by the Governor-General, or, if he has been tried in a colony, by the governor of the colony.

[55—*Rep 56 & 57 Vict c 4 s 9 (8)*]

56.—(1) An accused charged before a court-martial with stealing may be found guilty of embezzlement or of fraudulently misapplying money or property

Conviction of less offence permissible on charge of greater

(2) An accused charged before a court-martial with embezzlement may be found guilty of stealing or fraudulently misapplying money or property

(3) An accused charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave

(4) An accused charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave

(5) An accused charged before a court-martial with any other offence under this Act may, on failure of proof of an offence being committed under circumstances involving a higher degree of punishment, be found guilty of the same offence as being committed under circumstances involving a less degree of punishment

EXECUTION OF SENTENCE.

Commutation
and remission
of sentences.

57.—(1) The confirming authority may when confirming the sentence of any court-martial, mitigate or remit the punishment thereby awarded, or commute such punishment for any less punishment or punishments to which the offender might have been sentenced by the said court-martial, or if such punishment is death, awarded for the offence of murder, then for penal servitude or such less punishment as is in this Act mentioned. The confirming authority may also suspend for such times as seems expedient the execution of a sentence

(2) When a sentence passed by a court-martial has been confirmed, the following authorities shall have power to mitigate or remit the punishment thereby awarded, or to commute such punishment for any less punishment or punishments to which the offender might have been sentenced by the said court-martial, or, if such punishment is death, awarded for the offence of murder, then for penal servitude or such less punishment as in this Act mentioned, that is to say,

(a) As respects persons undergoing sentence in any place whatever, His Majesty or ¹[the Army Council] or the officer commanding the district or station where the prisoner subject to such punishment may for the time be, or any prescribed officer, and

(b) As respects persons undergoing sentences in India the Commander-in-Chief of the forces in India or such officer as the Commander-in-Chief of the forces in India, with the approval of the Governor-General of India in Council, may appoint, and

(c) As respects persons undergoing sentences in any colony, the officer commanding the forces in that colony, and

(d) As respects persons undergoing sentences in any place not in the United Kingdom, India, or a colony, the officer commanding the forces in such place

(3) Provided that the power given by this section shall not be exercised by an officer holding a command inferior to that of the authority confirming

¹ These words were substituted for the words "the Commander-in-Chief" by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol II, *see infra*.

the sentence, unless such officer is authorised by such confirming authority or other superior military authority to exercise such power.

(1) An authority having power under this section to mitigate, remit, or commute any punishment may, if it seem fit, do all or any of those things in respect of a person subject to such punishment.

(5) The provisions of this Act with respect to an original sentence of penal servitude, imprisonment, or detention shall apply to a sentence of penal servitude, imprisonment, or detention imposed by way of commutation.

58. When a person subject to military law is convicted by a court-martial, whether in the United Kingdom or elsewhere, either within or without His Majesty's dominions, and is sentenced to penal servitude, such conviction and sentence shall be of the same effect as if such person (in this Act referred to as a military convict) had been convicted in the United Kingdom of an offence punishable by penal servitude and sentenced to penal servitude by a competent civil court and all enactments relating to a person sentenced to penal servitude by a competent civil court shall so far as circumstances admit, apply accordingly.

Effect of sentence of penal servitude

59.—(1) Where a sentence of penal servitude is passed by a court-martial in the United Kingdom, the military convict on whom such sentence has been passed shall, as soon as practicable, be transferred to a penal servitude prison to undergo his sentence according to law, and until so transferred shall be kept in military custody.

Execution of sentences of penal servitude passed in the United Kingdom

(2) The order of the committing authority (hereafter in this section mentioned) shall be a sufficient warrant for his transfer to a penal servitude prison.

(3) At any time before his arrival at a penal servitude prison the discharging authority (hereafter in this section mentioned) may by order discharge the military convict.

(4) Any one or more of the following ¹[authorities] shall be the committing authority for the purposes of this section, namely,—

- (a) ¹[The Army Council],
- (b) ¹[The Army Council],
- (c) The commanding officer of the military convict,
- (d) Any other prescribed officer.

(5) Any one of the following ¹[authorities] shall be the discharging authority for the purposes of this section, namely,—

- (a) ¹[The Army Council],
- (b) ¹[The Army Council], and

tude passed
in India or
a colony

passed shall, as soon as practicable, be transferred to a penal servitude prison to undergo his sentence according to law

(2) The order of the committing authority (hereafter in this section mentioned) shall be a sufficient warrant for his transfer to a penal servitude prison

(3) The military convict during the period which intervenes between the passing of his sentence and his arrival at the penal servitude prison (in this section referred to as the term of his intermediate custody) shall be deemed to be in legal custody

(4) The military convict during his term of intermediate custody may be kept in military custody or in civil custody, or partly in one description of custody and partly in the other, and may from time to time be transferred from military custody to civil custody and from civil custody to military custody as occasion may require, and may, during his conveyance from place to place, or when on board ship or otherwise, be subjected to such restraint as is necessary for his detention and removal

(5) "Civil custody," for the purposes of this section, means custody in any authorised prison, nevertheless, where it is not practicable to place the military convict in an authorised prison he may, by way of civil custody, be confined temporarily in any other prison with the assent of the authority having jurisdiction over that prison

(6) The military convict whilst in any prison in which he may legally be placed may be dealt with, in respect of hard labour and otherwise, according to the rules of that prison

(7) An order of the removing authority (hereafter in this section mentioned) shall be a sufficient authority for the transfer of the military convict from military custody to civil custody and from civil custody to military custody, and his removal from place to place, and for his detention in civil custody, and generally for dealing with such convict in such manner as may be thought expedient during the term of his intermediate custody

(8) The removing authority during the term of the intermediate custody of the military convict may from time to time by order provide for his being brought before a court-martial, or any civil court, either as a witness or for trial or otherwise, and an order of such authority shall be a sufficient warrant for the delivering him into military custody, and detaining him in custody until he can be returned, and for returning him to the place from whence he is brought, or to such other place as may be determined by the removing authority

(9) Any directions of the removing authority relating to the mode in which the military convict is to be dealt with during the term of his intermediate custody may be contained in the same order or in several orders, and if the orders are more than one, they may be by different officers and at different times

(10) At any time before the military convict arrives at a penal servitude prison the discharging authority (hereafter in this section mentioned) may by order discharge the military convict,

(11) Any one or more of the following officers shall be the committing authority for the purposes of this section, that is to say,

(a) In India—

(i) The Commander-in-Chief of the forces in India ,

(ii) The Adjutant-General in India , and

(b) In a colony, the officer commanding the forces in that colony, and

(c) In any case, whether in India or in a colony, the prescribed officer.

(12) Any one or more of the following officers shall be the removing authority for the purposes of this section, that is to say,

(a) Any officer in this section named as the committing authority, also

(b) The officers commanding the military district or station where the military convict may for the time being be, also

(c) Any other prescribed officer

(13) Any of the following officers shall be the discharging authority for the purposes of this section, that is to say,

(a) The officer who confirmed the sentence, also

(b) Any officer in this section named as the committing authority, also

(c) any other prescribed officer

61.—(1) Where a sentence of penal servitude is passed by a court-martial in any foreign country, the military convict on whom such sentence has been passed shall as soon as practicable be transferred to a penal servitude prison for the purpose of undergoing his sentence according to law, and, until so transferred, may be kept in military custody

Execution of sentences of penal servitude passed in a foreign country

(2) The order of the committing authority (hereafter in this section mentioned) shall be a sufficient warrant for the transfer of the military convict to a penal servitude prison

(3) If at any time before his arrival in the United Kingdom the military convict is brought into India or any colony, he may be dealt with by the competent military authority in India or such colony in the same manner in all respects as if he had been there sentenced by court-martial to penal servitude

(4) The military convict may at any time before he arrives at any place in the United Kingdom, India, or any colony, be discharged by the discharging authority (hereafter in this section mentioned) having jurisdiction in any place where the military convict may for the time being be

(5) Any one or more of the following officers shall be the committing authority for the purposes of this section, that is to say,

(a) The officer commanding the army or force with which the military convict was serving at the time of his being sentenced,

(b) The officer who confirmed the sentence of the court,

(c) Any other prescribed officer

(6) Any committing authority under this section shall also be the discharging authority for the purposes of this section

General provisions applicable to penal servitude

62.—(1) A penal servitude prison for the purposes of the provisions of this Act relating to penal servitude means any prison or place in which a prisoner sentenced to penal servitude by a civil court in the United Kingdom can for the time being be confined, either permanently or temporarily

(2) An "authorised prison" for the purposes of the provisions of this Act relating to penal servitude means any prison in India or any colony which the Governor-General of India or the governor of such colony may, with the concurrence of a Secretary of State, have appointed as a prison in which military convicts may, during the period of their intermediate custody, be confined

(3) After a military convict has arrived at the penal servitude prison to undergo his sentence, he shall be dealt with in the like manner as an ordinary civil prisoner under sentence of penal servitude

Execution of sentences of imprisonment and detention

63.—(1) Where a sentence of imprisonment is passed by court-martial, the person on whom that sentence has been passed (in the provisions of this Act relating to imprisonment referred to as a military prisoner) shall undergo the term of his imprisonment either in military custody or in a detention barrack or in a public prison, or partly in one way and partly in another, and where a sentence of detention is passed by a court-martial or a commanding officer, the person on whom that sentence has been passed (in the provisions of this Act relating to detention referred to as a soldier undergoing detention) shall undergo the term of his detention either in military custody or in a detention barrack, or partly in one way and partly in the other, but not in a prison

(2) Any person liable to be imprisoned in a military prison may be confined in a detention barrack

(3) The order of the committing authority hereafter mentioned shall be a sufficient warrant for the transfer of a military prisoner to a public prison or a detention barrack, or a soldier undergoing detention to a detention barrack

(4) A military prisoner while in a public prison shall be confined, kept to hard labour, and otherwise dealt with in like manner as an ordinary prisoner under a like sentence of imprisonment, and where the hospital or place for the reception of sick persons in a public prison or a detention barrack is detached from the prison or detention barrack, a military prisoner or a soldier undergoing detention may be detained in that hospital or place, and conveyed to or from the same as circumstances require

(5) A military prisoner or a soldier undergoing detention, during his conveyance from place to place, or when on board ship or otherwise, may be subjected to such restraint as is necessary for his safe custody and removal

(6) The discharging authority hereafter mentioned may, at any time during the period of the imprisonment of a military prisoner, or of the detention of a soldier undergoing detention, by order discharge the prisoner or soldier

(7) The committing authority or any other prescribed authority may at any time by order remove a military prisoner from one public prison or deten-

tion barrack to another prison or detention barrack, or a soldier undergoing detention from one detention barrack to another, so that he be not removed from a prison or detention barrack in the United Kingdom to a prison or detention barrack elsewhere

(8) The removing authority hereafter mentioned may, at any time during the period of the imprisonment of a military prisoner or of the detention of a soldier undergoing detention from time to time by order, provide for his being brought before a court-martial, or any civil court, either as a witness, or for trial or otherwise, and an order of such authority shall be a sufficient warrant for delivering him into military custody and detaining him in custody until he can be returned, and for returning him to the place from whence he is brought, or to such other place as may be determined by the removing authority

64.—Where a sentence of imprisonment or detention is passed or is being undergone in the United Kingdom, then for the purposes of the provisions of this Act relating to imprisonment or detention, as the case may be—

Supplemental provisions as to sentences of imprisonment passed or being undergone in the United Kingdom

(1) The expression “ public prison ” means any prison in the United Kingdom in which offenders sentenced by a civil court to imprisonment can for the time being be confined

(2) Any one or more of the following ¹[authorities] shall be the committing authority

(a) ¹[The Army Council],

(b) ¹[The Army Council],

(c) The officer who confirmed the sentence,

(d) The commanding officer of the military prisoner or soldier undergoing detention, and

(e) any other prescribed officer

(3) Any one of the following ¹[authorities] shall be the discharging authority

(a) ¹[The Army Council],

(b) ¹[The Army Council],

(c) The officer commanding the military district in which the prisoner or soldier undergoing detention may be,

(d) The officer who confirmed the sentence,

(e) Any other prescribed officer, also

(f) Where the sentence was passed by the commanding officer, the commanding officer

(4) Any one or more of the following ¹[authorities] shall be the removing authority

(a) ¹[The Army Council],

(b) ¹[The Army Council],

(c) The officer commanding the military district in which the prisoner or soldier undergoing detention may be,

¹These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol. II, see *infra*

- (d) Any other prescribed officer, also,
- (e) Where the sentence was passed by the commanding officer, the commanding officer.

Supplemental
provision as
to sentences
of imprison-
ment passed
or being
undergone in
India or a
colony

65 Where a sentence of imprisonment or detention is passed or being undergone in India or any colony, then, for the purposes of the provisions of this Act relating to imprisonment or detention, as the case may be—

- (1) The expression “ public prison ” means any of the following prisons ,
that is to say,

- (a) Where the sentence was passed in India, any authorised prison in India ,

- (b) Where the sentence was passed in a colony, any authorised prison in that colony ,

- (c) Any such authorised prison in any part of His Majesty’s dominions other than that in which the sentence was passed as may be prescribed , and

- (d) Any public prison in the United Kingdom as above defined for the purpose of the provisions of this Act relating to imprisonment in the United Kingdom

- (2) “ Authorised prison ” means any prison in India or any colony which the Governor-General of India or the governor of such colony, with the concurrence of the Secretary of State, may have appointed as a prison in which military prisoners may be confined

- (3) A military prisoner may temporarily be confined in a prison not a public prison, with the assent of the authority having jurisdiction over such prison And a military prisoner, who is to undergo his sentence in the United Kingdom until he reaches a prison in the United Kingdom, in which he is to undergo his sentence, may be kept in military custody or in civil custody and partly in one description of custody and partly in the other, and may from time to time be transferred from military custody to civil custody, and from civil custody to military custody, as occasion may require

- (4) Any one or more of the following officers shall be the committing authority , that is to say,

- (a) In India—

- (i) The Commander-in-Chief of the forces in India ,

* * * * * *

- (iii) The Adjutant-General in India , and

* * * * * *

- (b) In a colony, the officers commanding the forces in that colony ;
and

- (c) In any case, whether in India or in a colony—

- (i) The officer who confirmed the sentence ,

- (ii) The commanding officer of the military prisoner or soldier undergoing detention; and
 - (iii) Any other prescribed officer
- (5) Any of the following officers shall be the discharging authority
- (a) The officer commanding the military district or station in which the prisoner or soldier undergoing detention may be,
 - (b) Any officer in this section named as a committing authority, with this exception, that the commanding officer shall only be a discharging authority where the sentence was passed by a commanding officer, and
 - (c) Any other prescribed officer
- (6) Any one or more of the following officers shall be the removing authority
- (a) Any officer in this section named as a committing authority,
 - (b) The officer commanding the military district or station where the prisoner or soldier undergoing detention may be, and
 - (c) Any other prescribed officer

66 Where a sentence of imprisonment or detention is passed by a court-martial or commanding officer in any foreign country, then if and as soon as the military prisoner or soldier undergoing detention on whom such sentence has been passed is brought into the United Kingdom or India, or any colony, the provisions of this Act shall apply in the same manner in all respects as if the sentence of imprisonment or detention had been passed in the United Kingdom, India, or any colony, as the case may be, with this addition that the officer commanding the army or force to which the military prisoner or soldier undergoing detention belonged at the time of his being sentenced shall also be deemed to be a committing authority

Supplemental provision as to sentences of imprisonment passed in a foreign country

(4) For the purposes of this section any one or more of the following¹[authorities] shall be the competent military authority

(a) In the United Kingdom—

- (1) ¹[The Army Council],
- (ii) ¹[The Army Council];
- (iii) Any other prescribed officer.

(b) In India—

- (i) The Commander-in-Chief of the forces in India ,
* * * *
- (iii) The Adjutant-General in India , and
* * * *

(c) In a colony, the officer commanding the forces in that colony, and

(d) In any case, whether in India or in a colony, the prescribed officer

Commence
ment of term
of penal
servitude or
imprison-
ment

68 —(1) The term of penal servitude, imprisonment, or detention to which a person is sentenced by a court-martial, whether the sentence has been revised or not, and whether the person is already undergoing sentence or not, shall be reckoned to commence on the day on which the original sentence and proceedings were signed by the president of the court-martial

(2) An offender under this Act shall not be subject to imprisonment or detention for more than two consecutive years, whether under one or more sentences

MISCELLANEOUS.

Articles of War and Rules of Procedure

Power of His
Majesty to
make Articles
of War

69. It shall be lawful for His Majesty to make Articles of War for the better government of officers and soldiers, and such Articles shall be judicially taken notice of by all judges and in all courts whatsoever. Provided that no person shall, by such Articles of War, be subject to suffer any punishment extending to life or limb, or to be kept in penal servitude, except for crimes which are by this Act expressly made liable to such punishment as aforesaid, or be subject, with reference to any crimes made punishable by this Act, to be punished in any manner which does not accord with the provisions of this Act

Power of His
Majesty to
make rules of
procedure

70.—(1) Subject to the provisions of this Act His Majesty may, by rules to be signified under the hand of a Secretary of State, from time to time make, and when made repeal, alter, or add to, provisions in respect of the following matters or any of them, that is to say,

- (a) The assembly and procedure of courts of inquiry,
- (b) The convening and constituting of courts-martial,
- (c) The adjournment, dissolution, and sittings of courts-martial,
- (d) The procedure to be observed in trials by court-martial,

¹These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol II, *infra*

- (e) The confirmation and revision of the findings and sentences of courts-martial, and enabling the authority having power under section fifty-seven of this Act to commute sentences to substitute a valid sentence for an invalid sentence of a court-martial,
 - (f) The carrying into effect sentences of courts-martial,
 - (g) The forms of orders to be made under the provisions of this Act relating to courts-martial, penal servitude, imprisonment, or detention,
 - (h) Any matter in this Act directed to be prescribed,
 - (i) Any other matter or thing expedient or necessary for the purpose of carrying this Act into execution so far as relates to the investigation, trial, and punishment of offences triable or punishable by military law
- (2) Provided always, that no such rules shall contain anything contrary to or inconsistent with the provisions of this Act
- (3) All rules made in pursuance of this section shall be judicially noticed
- (4) All rules made in pursuance of this section shall be laid before Parliament as soon as practicable after they are made, if Parliament be then sitting, and if Parliament be not then sitting, as soon as practicable after the beginning of the then next session of Parliament
- (5) The rules as to the procedure of courts of inquiry may provide for evidence being taken on oath and may empower courts of inquiry to administer oaths for that purpose

Command

71 —(1) For the purpose of removing doubts as to the powers of command vested or to be vested in officers and others belonging to His Majesty's forces, it is hereby declared that His Majesty may, in such manner as to His Majesty may from time to time seem meet, make regulations as to the persons to be invested as officers, or otherwise, with command over His Majesty's forces, or any part thereof, or any person belonging thereto, and as to the mode in which such command is to be exercised provided that command shall not be given to any person over a person superior in rank to himself

Removal of doubts as to military command

(2) Nothing in this section shall be deemed to be in derogation of any power otherwise vested in His Majesty

Inquiry as to and Confession of Desertion

72 —(1) When any soldier has been absent without leave from his duty for a period of twenty-one days, a court of inquiry may as soon as practicable be assembled, and inquire in the prescribed manner on oath or solemn declaration (which such court is hereby authorised to administer) respecting the fact of such absence, and the deficiency (if any) in the arms, ammunition, equipments, instruments, regimental necessities, or clothing of the soldier, and if satisfied of the fact of such soldier having absented himself without leave or other sufficient cause, the court shall declare such absence and the period

Inquiry by court on absence of soldier

thereof, and the said deficiency, if any, and the commanding officer of the absent soldier shall enter in the regimental books a record of the declaration of such court

(2) If the absent soldier does not afterwards surrender or is not apprehended, such record shall have the legal effect of a conviction by court-martial for desertion

Confession by
soldier of
desertion or
fraudulent
enlistment

73 —(1) Where a soldier signs a confession that he has been guilty of desertion or of fraudulent enlistment, a competent military authority may by the order dispensing with his trial by a court-martial, or by any subsequent order, award the same forfeitures and the same deductions from pay (if any) as a court-martial could award for the said offence, or as are consequential upon conviction by a court-martial for the said offence, except such of them as may be mentioned in the order

(2) If upon any such confession, evidence of the truth or falsehood of such confession cannot then be conveniently obtained, the record of such confession, countersigned by the commanding officer of the soldier, shall be entered in the regimental books, and such soldier shall continue to do duty in the corps in which he may then be serving or in any other corps to which he may be transferred, until he is discharged or transferred to the reserve, or until legal proof can be obtained of the truth or falsehood of such confession.

(3) The competent military authority for the purposes of this section means ¹[the Army Council,] or any prescribed general officer, or, in the case of India, the Commander-in-Chief of the forces in India, or such officer as the Commander-in-Chief of the forces in India, with the approval of the Governor-General of India in Council, may appoint, and in the case of a colony and elsewhere the general or other officer commanding the forces, subject in the case of India or a colony, or elsewhere, to any directions given by ¹[the Army Council]

Provost Marshal

Provost
Marshal

74 —(1) For the prompt repression of all offences which may be committed abroad, provost marshals with assistants may from time to time be appointed by the general order of the general officer commanding a body of forces

(2) A provost marshal or his assistants may at any time arrest and detain for trial persons subject to military law committing offences, and may also carry into execution any punishments to be inflicted in pursuance of a court-martial, but shall not inflict any punishment of his or their own authority

Provided that a provost marshal and his assistants shall, as respects any soldier in his or their custody and undergoing field punishment, have the same powers as the governor of a military prison

Restitution of Stolen Property.

Power as to
restitution of

75 —(1) Where a person has been convicted by court-martial of having stolen, embezzled, received, knowing it to be stolen, or otherwise unlawfully

¹These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol II, *see infra*

obtained, any property, and the property or any part thereof is found in the possession of the offender, the authority confirming the finding and sentence of such court-martial, or ¹[the Army Council,] may order the property so found to be restored to the person appearing to be the lawful owner thereof

(2) A like order may be made with respect to any property found in the possession of such offender, which appears to the confirming authority or ¹[the Army Council], to have been obtained by the conversion or exchange of any of the property stolen, embezzled, received, or unlawfully obtained

(3) Moreover, where it appears to the confirming authority or ¹[the Army Council] from the evidence given before the court-martial, that any part of the property stolen, embezzled, received, or unlawfully obtained was sold to or pawned with any person without any guilty knowledge on the part of the person purchasing or taking in pawn the property, the authority or ¹[the Army Council] may, on the application of that person, and on the restitution of the said property to the owner thereof, order that out of the money (if any) found in the possession of the offender, a sum not exceeding the amount of the proceeds of the said sale or pawning shall be paid to the said person purchasing or taking in pawn

(4) An order under this section shall not bar the right of any person, other than the offender, or any one claiming through him, to recover any property or money delivered or paid in pursuance of an order under this section from the person to whom the same is so delivered or paid

PART II

ENLISTMENT

Period of Service

76 A person may be enlisted to serve His Majesty as a soldier of the regular forces for a period of twelve years, or for such less period as may be from time to time fixed by His Majesty, but not for any longer period, and the period for which a person enlists is in this Act referred to as the term of his original enlistment ^{Limit of original enlistment}

77 The original enlistment of a person under this Act shall be as follows, either— ^{Terms of original enlistment.}

(1) For the whole of the term of his original enlistment in army service, or

(2) For such portion of the term of his original enlistment as may be from time to time fixed by ¹[the Army Council,] and specified in the attestation paper, in army service, and for the residue of the said term in the reserve

¹These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7 c. 3), Vol. II, see *infra*

Change of
conditions of
service

78 —(1) ¹[The Army Council] may from time to time, by general or special regulations, vary the conditions of service, so as to permit a soldier of the regular forces in army service, with his assent, either—

- (a) To enter the reserve at once for the residue unexpired of the term of his original enlistment, or
- (b) To extend his army service for all or any part of the residue unexpired of such term, or
- (c) To extend the term of his original enlistment up to the period of twelve years, or any shorter period

(2) ¹[The Army Council] may from time to time, by general or special regulations, vary the conditions of service so as to permit a man in the reserve, with his assent, to re-enter upon army service for all or any part of the residue unexpired of the term of his original enlistment, or for any period of time not exceeding twelve years in the whole from the date of his original enlistment

Reckoning
and forfeiture
of service

79 In reckoning the service of a soldier of the regular forces for the purpose of discharge or of transfer to the reserve—

- (1) The service shall begin to reckon from the date of his attestation, but
- (2) Where a soldier of the regular forces has been guilty of any of the following offences —
 - (a) Desertion from His Majesty's service, or
 - (b) Fraudulent enlistment,

then either upon his conviction by court-martial of the offence, or (if having confessed the offence, he is liable to be tried) upon his trial being dispensed with by order of the competent military authority, the whole of his prior service shall be forfeited, and he shall be liable to serve as a soldier of the regular forces for the term of his original enlistment, reckoned from the date of such conviction or such order dispensing with trial, in like manner as if he had been originally attested at that date

Provided that ¹[the Army Council] may restore all or any part of the service forfeited under this section to any soldier who may perform good and faithful service, or may otherwise be deemed by ¹[the Army Council] to merit such restoration of service or may be recommended for such restoration of service by a court-martial

Proceedings for Enlistment

Mode of en-
listment and
attestation

80 —(1) Every person authorised to enlist recruits in the regular forces (in this Act referred to as the "recruiter") shall give to every person offering to enlist a notice in the form for the time being authorised by ¹[the Army

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol II, *see infra*

Council] stating the general requirements of attestation and the general conditions of the contract to be entered into by the recruit, and directing such person to appear before a justice of the peace either forthwith or at the time and place therein mentioned

(2) Upon the appearance before a justice of the peace of a person offering to enlist, the justice shall ask him whether he has been served with and understands the notice and whether he assents to be enlisted, and shall not proceed with the enlistment if he considers the recruit under the influence of liquor

(3) If he does not appear before a justice, or on appearing does not assent to be enlisted, no further proceedings shall be taken

(4) If he assents to be enlisted—

(a) The justice, after cautioning such person that if he makes any false answer to the questions read to him he will be liable to be punished as provided by this Act, shall read or cause to be read to him the questions set forth in the attestation paper for the time being authorised by ¹[the Army Council,] and shall take care that such person understands each question so read, and after ascertaining that the answer of such person to each question has been duly recorded opposite the same in the attestation paper, shall require him to make and sign the declaration as to the truth of those answers set forth in the said paper, and shall then administer to him the oath of allegiance contained in the said paper

(b) Upon signing the declaration and taking the oath, such person shall be deemed to be enlisted as a soldier of His Majesty's regular forces

(c) The justice shall attest by his signature, in manner required by the said paper the fulfilment of the requirements as to attesting a recruit, and shall deliver the attestation paper, duly dated to the recruiter

(d) The fee for the attestation of a recruit, and for all acts and things incidental thereto, shall be one shilling and no more, and shall be paid to the clerk of the justice

(e) The officer who finally approves of a recruit for service shall, at his request, furnish him with a certified copy of his attestation paper

(5) The date at which the recruit signs the declaration and takes the oath in this section in that behalf mentioned shall be deemed to be the date of the attestation of such recruit

(6) The competent military authority, if satisfied that there is any error in the attestation paper of a recruit, may cause the recruit to attend before some justice of the peace, and that justice, if satisfied that such error exists, and is not so material as to render it just that the recruit should be discharged, may amend the error in the attestation paper, and the paper as amended shall

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c. 3), Vol II, *see infra*

thereupon be deemed as valid as if the matter of the amendment had formed part of the original matter of such paper

(7) Where the regulations of ¹[the Army Council] under this part of this Act require duplicate attestation papers to be signed and attested, this section shall apply to both such duplicates, and in the event of any amendment of an attestation paper the amendment shall be made in both of the duplicate attestation papers

Power of
recruit to
purchase
discharge

81 If a recruit within three months after the date of his attestation pays for the use of His Majesty a sum not exceeding ten pounds, he shall be discharged with all convenient speed, unless he claims such discharge during a period when soldiers in army service, who otherwise would be transferred to the reserve, are required by a proclamation of His Majesty in pursuance of this Act to continue in army service, in which case he may be retained in His Majesty's service during that period, and at the termination thereof shall, if he so require it, on the payment then of the said sum, be discharged

Appointment to Corps and Transfers

Enlistment
for general
service
and appoint-
ment to
corps

82 —(1) Recruits may, in pursuance of any general or special regulations from time to time made by ¹[the Army Council,] be enlisted for service in particular corps of the regular forces, but save as is provided by such regulations, if any, recruits shall be enlisted for general service

(2) The competent military authority shall as soon as practicable appoint a recruit, if enlisted for service in a particular corps, to that corps, and if enlisted for general service, to some corps of the regular forces

Effect of
appointment
to a corps
and provision
for transfer

83 A soldier of the regular forces, whether enlisted for general service or not, when once appointed to a corps, shall serve in that corps for the period of his army service, whether during the term of his original enlistment or during the period of such re-engagement as is in this Act mentioned, unless transferred under the following provisions —

(1) A soldier of the regular forces enlisted for general service may within three months after the date of his attestation be transferred to any corps of the regular forces of the same arm or branch of the service by order of the competent military authority

(2) A soldier of the regular forces may at any time with his own consent be transferred by order of the competent military authority to any corps of the regular forces

(3) Where a soldier of the regular forces is in pursuance of any of the foregoing provisions transferred to a corps in an arm or branch different from that in which he was previously serving, the competent military authority may by order vary the conditions of his service so as to correspond with the general conditions of service in the arm or branch to which he is transferred

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol II, *see infra*

to such corps of the regular forces as the competent military authority may from time to time order

- (8) A soldier of the regular forces delivered into military custody or committed by a court of summary jurisdiction in any part of His Majesty's dominions as a deserter shall be liable to be transferred by order of the competent military authority to any corps of the regular forces near to the place where he is delivered or committed, or to any other corps to which the competent military authority think it desirable to transfer him, and to serve in the corps to which he is so transferred without prejudice to his subsequent trial and punishment

Re-engagement and Prolongation of Service

Re engage-
ment of
soldiers

84 (1) Subject to any general or special regulations from time to time made by ¹[the Army Council], a soldier of the regular forces, if in army service, and after the expiration of nine years from the date of his original term of enlistment, may on the recommendation of his commanding officer, and with the approval of the competent military authority, be re-engaged for such further period of army service as will make up a total continuous period of twenty-one years of army service, reckoned from the date of his attestation, and inclusive of any period previously served in the reserve

(2) A soldier of the regular forces during his period of re-engagement shall be liable to forfeit his previous service during such period of re-engagement in like manner as he is liable under this part of this Act during the term of his original enlistment

(3) A soldier of the regular forces who so re-engages shall make before his commanding officer a declaration in accordance with the said regulations

Continuance
in service
after 21
years' service

85 A soldier of the regular forces who has completed, or will within one year complete, a total period of twenty-one years' service, inclusive of any period served in the reserve, may give notice to his commanding officer of his desire to continue in His Majesty's service in the regular forces, and if the competent military authority approve he may be continued as a soldier of the regular forces in the same manner in all respects as if his term of service were still unexpired, except that he may claim his discharge at the expiration of any period of three months after he has given notice to his commanding officer of his wish to be discharged

Re engage
ment and
continuance
of service of
non-com-
missioned
officers

86 The regulations from time to time made in pursuance of this part of this Act may, if it seems expedient, provide that a non-commissioned officer of the regular forces who extends his army service for the residue unexpired of his original term of enlistment shall have the right at his option to re-engage, under section eighty-four, and to continue his service, under section eighty-five of this Act, or to do either of such things, subject nevertheless, to the

¹ These words were substituted by the Army (Annual) Act 1909 (9 Edw 7, c 3), Vol. II, *see infra*.

veto of ¹[the Army Council] or other authority mentioned in the regulations, and to such other conditions as are specified in the regulations

87 (1) Where the time at which a soldier of the regular forces would otherwise be entitled to be discharged occurs while a state of war exists between His Majesty and any foreign power, or while such soldier is on service beyond the seas, or while soldiers in the reserve are required by proclamation, in pursuance of the enactments relating to the calling out of the reserve on permanent service, to continue in or re-enter upon army service, the soldier may be detained, and his service may be prolonged for such further period not exceeding twelve months, as the competent military authority may order, but at the expiration of that period, or any earlier period at which the competent military authority considers his services can be dispensed with, the soldier shall, as provided by this Act, be discharged with all convenient speed

Prolongation
of service in
certain cases

(2) Where the time at which a soldier of the regular forces would otherwise be entitled to be transferred to the reserve occurs while a state of war exists between His Majesty and any foreign power, the soldier may be detained in army service for such further period, not exceeding twelve months, as the competent military authority may order, but at the expiration of that period, or any earlier period at which the competent military authority considers his services can be dispensed with, the soldier shall with all convenient speed be sent to the United Kingdom for the purpose of being transferred to the reserve

(3) If a soldier required under this section to be discharged or sent to the United Kingdom desires, while a state of war exists between His Majesty and any foreign power, to continue in His Majesty's service, and the competent military authority approve, he may agree to continue as a soldier of the regular forces in the same manner in all respects as if his term of service were still unexpired, except that he may claim his discharge at the end of such state of war, or if it is so provided by such agreement, at the expiration of any period of three months after he has given notice to his commanding officer of his wish to be discharged

(4) A soldier who so agrees to continue shall make before his commanding officer a declaration in accordance with any general or special regulations from time to time made by ¹[the Army Council]

88.—(1) It shall be lawful for His Majesty in Council in case of imminent national danger or of great emergency, by proclamation, the occasion being first communicated to Parliament if Parliament be then sitting, or if Parliament be not then sitting declared by the proclamation, to order that the soldiers who would otherwise be entitled in pursuance of the terms of their enlistment to be transferred to the reserve shall continue in army service

In imminent
national
danger, His
Majesty may
continue
soldiers in
army service
or call out
reserve for
permanent
service

(2) It shall be lawful for His Majesty by any such proclamation to order ¹[the Army Council] from time to time to give, and when given to revoke or vary, such directions as may seem necessary or proper for causing all or any of the soldiers mentioned in the proclamation to continue in army service.

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol II, *infra*.

(3) Every soldier for the time being required by or in pursuance of such directions to continue in army service shall continue to serve in army service for the same period for which he might be required to serve, if he had been transferred to the reserve and called out for permanent service by a proclamation of His Majesty under the enactments relating to the reserve

(4) Any man who has entered the reserve in pursuance of the terms of his enlistment may be called out for permanent service by a proclamation of His Majesty under the enactments relating to the calling out of the reserve on permanent service

Discharge and Transfer to Reserve Force.

89. In the following cases, that is to say,

- (1) Where a soldier of the regular forces has been invalided from service beyond the seas, or
- (2) Where a corps to which a soldier of the regular forces belongs, or the part thereof in which he is serving, is ordered on service beyond the seas, and the soldier is either unfit for such service by reason of his health, or is within two years of the end of the period of his army service in the term of his original enlistment,

the competent military authority may by order transfer him to the reserve in like manner as if the period of his actual service were specified in his attestation paper as the portion of the term of his original enlistment which was to be spent in army service

90. (1) Save as otherwise provided by this Act or the Acts relating to the reserve forces, every soldier of the regular forces, upon the completion of the term of his original enlistment, or of the period of his re-engagement, shall be discharged with all convenient speed, but until so discharged shall be subject to this Act as a soldier of the regular forces

(2) Where a soldier of the regular forces enlisted in the United Kingdom is, when entitled to be discharged, serving beyond the seas, he shall, if he so requires, be sent to the United Kingdom, and in such case shall, with all convenient speed, be sent there free of expense, and on his arrival be discharged. If such soldier is permitted, at his request, to stay at the place where he is serving, he shall not afterwards have any claim to be sent at the public expense to the United Kingdom or elsewhere

(3) Every soldier of the regular forces upon the completion of the period of his army service, if shorter than the term of his original enlistment, shall be transferred to the reserve, but until so transferred shall be subject to this Act as a soldier of the regular forces

(4) Where a soldier of the regular forces, when entitled to be transferred to the reserve, is serving beyond the seas, he shall be sent to the United Kingdom free of expense with all convenient speed, and on his arrival shall be transferred to the reserve.

Transfer of
soldier to
reserve when
corps ordered
abroad

used
transferred
to reserve

(5) A soldier of the regular forces who is discharged on the completion of the term of his original enlistment or his re-engagement, as mentioned in the second sub-section of this section, or is transferred to the reserve, shall be entitled to be conveyed free of cost from the place in the United Kingdom where he is discharged or transferred to the place in which he appears from his attestation paper to have been attested, or to any place at which he may at the time of his discharge or transfer decide to take up his residence, and to which he can be conveyed without greater cost. Provided that in the case of transfer to the reserve he shall not be entitled to be so conveyed to any place out of the United Kingdom.

91. (1) ¹[The Army Council] or any officer deputed by him for the purpose may, if he think proper, on account of a soldier's lunacy, cause any soldier of the regular forces on his discharge, and his wife and child, or any of them, to be sent to the parish or union to which under the statutes for the time being in force he appears, from the statements made in his attestation paper and other available information to be chargeable, and such soldier, wife, or child, if delivered after reasonable notice, in England or Ireland at the workhouse in which persons settled in such parish or union are received, and in Scotland to the inspector of poor of such parish, shall be received by the master or other proper officer of such workhouse or such inspector of poor, as the case may be.

Delivery of lunatic soldier on discharge with his wife or child at workhouse or of dangerous lunatic at asylum

(2) Provided that ¹[the Army Council], or any officer deputed by him for the purpose, where it appears to him that any such soldier is a dangerous lunatic, and is in such a state of health as not to be liable to suffer bodily or mental injury by his removal, may, by order signified under his hand, send such lunatic direct to an asylum, registered hospital, licensed house, or other place in which pauper lunatics can legally be confined, and for the purpose of the said order the above-mentioned parish or union shall be deemed to be the parish or union from which such lunatic is sent.

(3) In England the lunatic shall be sent to the asylum, hospital, house, or place to which a person in the workhouse aforesaid, on becoming a dangerous lunatic, can by law be removed, and an order of ¹[the Army Council] under this section shall be of the same effect as a summary reception order within the meaning of the Lunacy Act, 1890, and the like proceedings shall be taken thereon as on an order under that Act.

(4) ¹[The Army Council] or officer, before making the said order in respect of a lunatic who is liable to be delivered to the inspector of poor of a parish in Scotland, may require the inspector of poor of that parish to specify the asylum to which such lunatic if in the parish would be sent, and it shall be the duty of such inspector forthwith to specify such asylum, and thereupon ¹[the Army Council] may make the said order for sending the lunatic to that asylum, and such order shall be of the same effect as an order by the sheriff

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol. II, see *infra*

within the meaning of section fifteen of the Lunacy (Scotland) Act, 1862, and the like proceedings shall be taken thereon as on an order under that section 25 & 26 Vict
c 54

(5) In the case of any such lunatic, who is liable to be delivered at a work-house in Ireland at which persons settled in the said union are received, ¹[the Army Council] or any officer deputed by him for the purpose, may, by order under his hand, send such lunatic to the asylum of the district in which such union is situate, and such order shall be of the same effect as a warrant under the hands and seals of two justices given under the provisions of the tenth section of the Act of the session of the thirtieth and thirty-first years of the reign of Her late Majesty, chapter one hundred and eighteen, intituled "An Act to provide for the appointment of the officers and servants of district lunatic asylums in Ireland, and to alter and amend the law relating to the custody of dangerous lunatics and dangerous idiots in Ireland"

92. (1) A soldier of the regular forces shall not be discharged from those forces, unless by sentence of court-martial with ignominy, or by order of the competent military authority, or by authority direct from His Majesty, and until duly discharged in manner provided by this Act and by regulations of ¹[the Army Council] under this Act shall be subject to this Act

(2) To every soldier of the regular forces who is discharged, for whatever reason he is discharged, there shall be given a certificate of discharge, stating such particulars as may be from time to time required by regulations of ¹[the Army Council] under this Act

(3) Notwithstanding anything in Part III of the Territorial and Reserve Forces Act, 1907, a man who has been discharged from the regular forces may, if it is so prescribed by regulations under the Reserve Forces Act, 1882, and subject to the conditions (if any) so prescribed, enlist into the army reserve as a special reservist

Authorities to enlist and attest Recruits

93. ¹[The Army Council] may from time to time make, and when made, revoke and alter a general or special order making such regulations, giving such directions, and issuing such forms as he may think necessary or expedient respecting the persons authorised to enlist recruits for His Majesty's regular forces, and for the purpose of such enlistment, and generally for carrying this part of this Act into effect, and any such order shall be of the same effect as if enacted in this Act

94. For the purposes of the attestation of soldiers in pursuance of this part of this Act—

An officer in the United Kingdom or elsewhere, if authorised in that behalf under the regulations of ¹ [the Army Council], also every person exercising the office of a magistrate in India or a Colony, and also each of the following persons, shall have the authority

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c. 3), Vol. II. *see infra*.

Regulation
as to dis-
charge of
soldiers

Regulations
as to persons
to enlist and
enlistment of
soldiers

Justices of
the peace for
the purposes
of enlist-
ment.

of a justice of the peace, and be deemed to be included in the expression "justice of the peace" wherever used in this part of this Act in relation to the attestation of soldiers, that is to say,—

In India, any person duly authorised in that behalf by the Governor General, and in the territories of any native state in India, the person performing the duties of the office of British resident or political agent therein, or any other person authorised in that behalf by the Governor-General of India, and

In a colony, any person duly authorised in that behalf by the governor of the colony, and

Beyond the limits of the United Kingdom, India, and a colony, any British consul general, consul, or vice-consul, or person duly exercising the authority of a British consul

Special Provisions as to Persons to be enlisted

95. (1) Any person who is for the time being an alien may, if His Majesty think fit to signify his consent through a Secretary of State, be enlisted in His Majesty's regular forces, so however, that the number of aliens serving together at any one time in any corps of the regular forces shall not exceed the proportion of one alien to every fifty British subjects, and that an alien so enlisted shall not be capable of holding any higher rank in His Majesty's regular forces than that of a warrant officer or non-commissioned officer

Enlistment of
aliens,
negroes, &c

(2) Provided that notwithstanding the above provisions of this section any inhabitant of any British protectorate and any negro or person of colour, although an alien may voluntarily enlist in pursuance of this part of this Act, and when so enlisted, shall while serving in His Majesty's regular forces, be deemed to be entitled to all the privileges of a natural-born British subject

96. The master of an apprentice in the United Kingdom who has been attested as a soldier of the regular forces may claim him while under the age of twenty-one years as follows, and not otherwise —

Claims of
masters to
apprentices

(1) The master, within one month after the apprentice left his service, must take before a justice of the peace the oath in that behalf specified in the First Schedule to this Act, and obtain from the justice a certificate of having taken such oath, which certificate the justice shall give in the form in the said schedule, or to the like effect

(2) A court of summary jurisdiction within whose jurisdiction the apprentice may be, if satisfied on complaint by the master that he is entitled to have the apprentice delivered up to him, may order the officer under whose command the apprentice is to deliver him to the master, but if satisfied that the apprentice stated on his attestation that he was not an apprentice, may, and if required by or on behalf of, the said commanding officer, shall try the apprentice for the offence of making such false statement, and if need be may adjourn the case for the purpose

- (3) Except in pursuance of an order of a court of summary jurisdiction, an apprentice shall not be taken from His Majesty's service
- (4) An apprentice shall not be claimed in pursuance of this section unless he was bound for at least four years by a regular indenture, and was under the age of sixteen years when so bound.
- (5) A master who gives up the indenture of his apprentice within one month after the attestation of such apprentice shall be entitled to receive to his own use so much of the bounty (if any) payable to such apprentice on enlistment as has not been paid to the apprentice before notice was given of his being an apprentice

Application
of apprentice
provisions to
indentured
labourers

97. The provisions of this part of this Act with respect to apprentices shall apply to a person who at the time of his attestation is an indentured labourer in a colony, with these qualifications, that such indentured labourer, if imported at the expense of the employer or of the colony in consideration of the indenture under which he is serving, may be claimed although above the age of twenty-one years, and though bound for a less period or at an older age than is above specified

Offences as to Enlistment

Penalty on
unlawful
recruiting

98. If a person without due authority—

- (1) Publishes or causes to be published notices or advertisements for the purpose of procuring recruits for His Majesty's regular forces, or in relation to recruits for such forces, or
- (2) Opens or keeps any house, place of rendezvous, or office as connected with the recruiting of such forces, or
- (3) Receives any person under any such advertisement as aforesaid, or
- (4) Directly or indirectly interferes with the recruiting service of such forces,

Recruits
punishable
for false
answers

he shall be liable on summary conviction to a fine not exceeding twenty pounds

99.—(1) If a person knowingly makes a false answer to any question contained in the attestation paper, which has been put to him by or by direction of the justice before whom he appears for the purpose of being attested, he shall be liable on summary conviction to be imprisoned with or without hard labour for any period not exceeding three months

(2) If a person guilty of an offence under this section has been attested as a soldier of the regular forces, he shall be liable, at the discretion of the competent military authority, to be proceeded against before a court of summary jurisdiction, or to be tried by court-martial for the offence

Miscellaneous as to Enlistment

Validity of
attestation
and enlist-
ment or

100. (1) Where a person after his attestation on his enlistment or the making of his declaration on re-engagement, has received pay as a soldier of the regular forces during three months, he shall be deemed to have been

duly attested and enlisted or duly re-engaged, as the case may be, and shall not be entitled to claim his discharge on the ground of any error or illegality in his enlistment, attestation, or re-engagement, or on any other ground whatsoever, save as authorised by this Act, and, if within the said three months such person claims his discharge, any such error or illegality or other ground shall not, until such person is discharged in pursuance of his claim, affect his position as a soldier in His Majesty's service, or invalidate any proceedings, act, or thing taken or done prior to such discharge

(2) Where a person is in pay as a soldier in any corps of His Majesty's regular forces, such person shall be deemed for all the purposes of this Act to be a soldier of the regular forces, with this qualification, that he may at any time claim his discharge, but until he so claims and is discharged in pursuance of that claim, he shall be subject to this Act as a soldier of the regular forces legally enlisted and duly attested under this Act

(3) Where a person claims his discharge on the ground that he has not been attested or re-engaged, or not duly attested or re-engaged, his commanding officer shall forthwith forward such claim to the competent military authority who shall as soon as practicable submit it to ¹ [the Army Council], and if the claim appears well grounded the claimant shall be discharged with all convenient speed

101. (1) Any act authorised or required by this part of this Act to be done by, to, or before, the competent military authority, may be done by, to, or before ¹ [the Army Council], or any officer prescribed in that behalf

(2) For the purposes of this part of this Act the expression "reserve" means the first class of the army reserve force

Definition for purposes of Part Two of competent military authority and reserve

PART III

BILLETING AND IMPRESSMENT OF CARRIAGES

Billeting of Officers and Soldiers

102. During the continuance in force of this Act, so much of any law as prohibits, restricts, or regulates the quartering or billeting of officers and soldiers on any inhabitant of this realm without his consent is hereby suspended, so far as such quartering or billeting is authorised by this Act

Suspension of 3 Chas 1 c 1, 31 Chas 2 c 1, 6 Anne

103. (1) Every constable for the time being in charge at any place in the United Kingdom mentioned in the route issued to the commanding officer of any portion of His Majesty's regular forces shall, on the demand of such commanding officer, or of an officer or soldier authorised by him, and on production of such route, billet on the occupiers of victualling houses and other premises specified in this Act as victualling houses in that place such number of officers, soldiers and horses entitled under this Act to be billeted as are mentioned in the route and stated to require quarters

(1) c 14 as to billeting Obligation of constable to provide billets for officers, soldiers, and horses

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol. II, *see infra*.

(2)¹ A route for the purposes of this part of this Act shall be issued under the authority of His Majesty, signified through a Secretary of State, and shall state the forces to be moved in pursuance of the route, and that statement shall be signed by such officer as ¹[the Army Council] may from time to time order in that behalf

(3) A route purporting to be issued and signed as required by this section shall be evidence, until the contrary is proved, of its having been duly issued and signed in pursuance of this Act, and if delivered to an officer or soldier by his commanding officer, shall be a sufficient authority to such officer or soldier to demand billets, and when produced by an officer or soldier to a constable, shall be conclusive evidence to such constable of the authority of the officer or soldier producing the same to demand billets in accordance with such route

Inability to
provide
billets

104. (1) The provisions of this part of this Act, with respect to victualling houses shall extend to all inns, hotels, livery stables, or alehouses, also to the houses of sellers of wine by retail, whether British or foreign, to be drunk in their own houses or places thereunto belonging, and to all houses of persons selling brandy, spirits, strong waters, cider, or metheglin by retail, and the occupier of a victualling house, inn, hotel, livery stable, alehouse, or any such house as aforesaid shall be subject to billets under this Act, and is in this Act included under the expression "keeper of a victualling house," and the inn, hotel, house, stables, and premises of such occupiers are in this Act included under the expression "victualling house"

(2) Provided that an officer or soldier shall not be billeted—

- (a) In any private house, nor
- (b) In any canteen held or occupied under the authority of a Secretary of State, nor
- (c) On persons who keep taverns only, being vintners of the City of London admitted to their freedom of the said company in right of patrimony or apprenticeship, notwithstanding the persons who keep such taverns have taken out licenses for the sale of any intoxicating liquor, nor
- (d) In the house of any distiller kept for distilling brandy and strong waters, so as such distiller does not permit tippling in such house, nor
- (e) In the house of any shopkeeper whose principal dealing is more in other goods and merchandise than in brandy and strong waters, so as such shopkeeper does not permit tippling in such house, nor
- (f) In a house of a person licensed only to sell beer or cider not to be consumed on the premises, nor
- (g) In the house of residence of any foreign consul duly accredited as such

105. (1) All officers and soldiers of His Majesty's regular forces, and

Officers,
soldiers, and

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3) Vol. II, see *infra*.

- (2) All horses belonging to His Majesty's regular forces, and
 (3) All horses belonging to the officers of such forces for which forage is ^{horses entitled to be billeted} for the time being allowed by His Majesty's regulations,

shall be entitled to be billeted

106. (1) The keeper of a victualling house upon whom any officer, soldier or house is billeted shall receive such officer, soldier, or horse in his victualling house, and furnish there the accommodation following, that is to say, lodging and attendance for the officer, and lodging, attendance, and food for the soldier, and stable room and forage for the horse, in accordance with the provisions of the Second Schedule to this Act ^{Accommodation and payment on bill}

(2) When the keeper of a victualling house on whom any officer, soldier, or horse is billeted desires, by reason of his want of accommodation or of his victualling house being full or otherwise, to be relieved from the liability to receive such officer, soldier, or horse in his victualling house and provides for such officer, soldier, or horse in the immediate neighbourhood such good and sufficient accommodation as he is required by this Act to provide, and as is approved by the constable issuing the billets, he shall be relieved from providing the same in his victualling house

(3) There shall be paid to the keeper of a victualling house for the accommodation furnished by him in pursuance of this Act the prices for the time being authorised in this behalf by Parliament

(4) An officer or soldier demanding billets in pursuance of this Act shall, before he departs, and if he remains longer than four days, at least once in every four days, pay the just demands of every keeper of a victualling house on whom he and any officers and soldiers under his command, and his or their horses (if any) have been billeted.

(5) If by reason of a sudden order to march or otherwise, an officer or soldier is not able to make such payment to any keeper of a victualling house as is above required, he shall before he departs make up with such keeper of a victualling house an account of the amount due to him, and sign the same and forthwith transmit the account so signed to ¹ [the Army Council], who shall forthwith cause the amount named in such account as due to be paid

107. (1) The police authority for any place may cause annually a list to be made out of all keepers of victualling houses within the meaning of this Act in such place, or any particular part thereof, liable to billets under this Act, specifying the situation and character of each victualling house, and the number of soldiers and horses who may be billeted on the keeper thereof. ^{Annual list of keepers of victualling houses liable to billets}

(2) The police authority shall cause such list to be kept at some convenient place open for inspection at all reasonable times by persons interested and any person who feels aggrieved either by being entered in such list, or by being entered to receive an undue proportion of officers, soldiers, or horses, may complain to a court of summary jurisdiction, and the court, after such

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw. 7, c 3), Vol. II, see *infra*

notice as the court think necessary to persons interested, may order the list to be amended in such manner as the court may think just

Regulations
as to grant of
billets

108. The following regulations shall be observed with respect to billeting in pursuance of this Act, that is to say,—

- (1) No more billets shall at any time be ordered than there are effective officers, soldiers, and horses present to be billeted
- (2) All billets, when made out by the constable, shall be delivered into the hands of the commanding officer or non-commissioned officer who demanded the billets, or of some officer authorised by such commanding officer
- (3) If a keeper of a victualling house feels aggrieved by having an undue proportion of officers, soldiers, or horses billeted on him, he may apply to a justice of the peace, or if the billets have been made out by a justice may complain to a court of summary jurisdiction, and the justice or court may order such of the officers, soldiers, or horses to be removed and to be billeted elsewhere as may seem just
- (4) A constable having authority in a place mentioned in the route may act for the purposes of billeting in any locality within one mile from such place, unless some constable ordinarily having authority in such locality is present and undertakes to billet therein the due proportion of officers, soldiers, and horses
- (5) The regulations with respect to billets contained in the Second Schedule to this Act shall be duly observed by the constable
- (6) A justice of the peace on the request of an officer or non-commissioned officer authorised to demand billets may vary a route by adding any place or omitting any place, and also may direct billets to be given above one mile from place mentioned in the route
- (7) A justice of the peace may require a constable to give an account in writing of the number of officers, soldiers and horses billeted by such constable, together with the names of the keepers of victualling houses on whom such officers, soldiers, and horses are billeted, and the locality of such victualling houses

¹108a. (1) Where directions have been given for embodying all or any part of the Territorial Force, His Majesty by Order distinctly stating that a case of emergency exists, and signified by the Secretary of State, and also in Ireland the Lord Lieutenant by a like Order, signified by the Chief Secretary or Under-Secretary, may authorise any general or field officer commanding His Majesty's regular forces in any military district or place in the United Kingdom to issue a billeting requisition under this section

(2) Any officer so authorised may issue a billeting requisition under his hand reciting the said Order and requiring chief officers of police to provide

¹ Section 108 A was inserted by the Army (Annual) Act, 1909 (9 Edw. 7, c. 3), s. 7, Vol. II, *see infra*

billets in such places and for such number of officers and soldiers, and their horses, and for such period, as may be specified in the requisition

(3) The provisions of this Act as to billeting shall apply to billeting under such a requisition as if for references therein to a route there were substituted references to such a requisition, subject, however, to the following modifications —

- (a) The occupiers of all public buildings, dwelling-houses, warehouses, barns, and stables shall, as well as the keepers of victualling houses, be liable to billets, and the said provisions shall apply as if references to victualling houses and the keepers of victualling houses included references to such public buildings, dwelling-houses, warehouses, barns, and stables, and the occupiers thereof
- (b) The powers and duties conferred or imposed on constables shall be exercised and performed by the chief officers of police, and accordingly for references to constables in the said provisions there shall be substituted references to the chief officers of police and for the reference to a justice of the peace in sub-section (7) of section one hundred and eight there shall be substituted a reference to a court of summary jurisdiction, but a chief officer of police, in selecting the persons required to provide billets, and in determining the number of officers and soldiers to be billeted on any person, shall, so far as practicable, have regard to the convenience of the several occupiers and shall act in accordance with any general instructions which may have been issued by the police authority
- (c) The prices to be paid to an occupier other than the keeper of a victualling house for accommodation furnished and food and fodder supplied by him shall be such as may be fixed by regulations made by the Army Council with the consent of the Treasury
- (d) Sub-section (2) of section one hundred and three (which defines a route), paragraph (6) of section one hundred and eight (which relates to the power of a justice to vary a route), and paragraph (2) of Part II of the Second Schedule to the *Army Act* (which requires billets to be made out to the less distant victualling houses) shall not apply

The expression "chief officer of police"—

- (a) As respects the city of London, means the Commissioner of City Police and elsewhere in England has the same meaning as in the Police Act, 1890, 53 & 54 Vict. c 45
- (b) In Scotland has the same meaning as in the Police (Scotland) Act, 1890, 53 & 54 Vict. c 67
- (c) As respects the police districts of Dublin metropolis, means the Chief Commissioner of Police for that district, and elsewhere means a county inspector of the Royal Irish Constabulary

In the case of unoccupied premises this section shall apply as if the owner were the occupier thereof

(6) Compensation shall be paid by the Army Council out of money voted by Parliament for Army services in respect of any damage caused by any officer or soldier billeted under this section to the premises in which he is billeted, and the amount of such compensation shall in the event of disagreement be determined—

- (a) In England by arbitration under the Arbitration Act, 1889, 52 & 5. c 49
- (b) In Scotland in the same manner as a question of disputed compensation under sub-section (10) of section twenty-five of the Local Government (Scotland) Act, 1894, 57 & 58 c 58
- (c) In Ireland by arbitration under the Common Law Procedure Amendment Act (Ireland), 1856, as amended by any subsequent enactment 19 & 20 c 102

Offences in relation to Billeting

109. If a constable commits any of the offences following, that is to say,—

- (1) Billets any officer, soldier, or horse, or¹ any person not liable to billets without the consent of such person, or
 - (2) Receives, demands, or agrees for any money or reward whatsoever to excuse or relieve a person from being entered in a list as liable or from his liability to billets, or from any part of such liability, or
 - (3) Billets or quarters on any person or premises, without the consent of such person or the occupier of such premises, any person or horse not entitled to be billeted, or
 - (4) Neglects or refuses after sufficient notice is given to give billets, demanded for any officer, soldier, or horse entitled to be billeted,
- he shall, on summary conviction, be liable to a fine of not less than forty shillings and not exceeding ten pounds

110. If a keeper of a victualling house commits any of the offences following, that is to say,—

- (1) Refuses or neglects to receive any officer, soldier or horse billeted upon him in pursuance of this Act, or to furnish such accommodation as is required by this Act; or

¹ Printed as in the authorized edition. *Quære* whether it should be "on" as in the last edition of this collection.

(2) Gives or agrees to give any money or reward to a constable to excuse or relieve him from being entered in a list as liable, or from his liability to billets, or any part of such liability, or

(3) Gives or agrees to give to any officer or soldier billeted upon him, in pursuance of this Act, any money or reward in lieu of receiving an officer, soldier, or horse, or furnishing the said accommodation,

he shall, on summary conviction, be liable to a fine of not less than forty shillings and not exceeding five pounds.

111 (1) If any officer quarters or causes to be billeted any officer, soldier, or horse, otherwise than is allowed by this Act upon any person, he shall be guilty of a misdemeanor offences by officers or soldiers

(2) If any officer or soldier commits any offence in relation to billeting for which he is liable to be punished under Part One of this Act, other than an offence in respect of which any other remedy is given by this part of this Act to the person aggrieved, he shall, upon summary conviction, be liable to a fine not exceeding fifty pounds

(3) A certificate of a conviction for an offence under this section shall be transmitted by the court making such conviction to ¹ [the Army Council]

Impressment of Carriages

112 (1) Every justice of the peace in the United Kingdom having jurisdiction in any place mentioned in a route issued to the commanding officer of any portion of His Majesty's regular forces shall, on the demand of such commanding officer, or of an officer or non-commissioned officer authorised by him, and on production of such route, issue his warrant requiring some constable or constables having authority in such place to provide, within a reasonable time to be named in the warrant, such carriages, animals, and drivers as are stated to be required for the purpose of moving the regimental baggage and regimental stores of the forces mentioned in the route in accordance with the route, and the constable or constables shall execute such warrant, and persons having carriages and animals suitable for the said purpose shall, when ordered by a constable in pursuance of such warrant, furnish the same in a state fit for use for the aforesaid purpose Supply of carriages, etc., for regimental baggage and stores on the march

(2) The route for the purpose of this section shall be such route as is mentioned in the foregoing provisions of this part of this Act with respect to billeting

(3) A route purporting to be issued and signed as required by those provisions, if delivered to an officer or non-commissioned officer by his commanding officer, shall be a sufficient authority to such officer or non-commissioned officer to demand carriages and animals in pursuance of this Act, and when produced by an officer or non-commissioned officer shall be conclusive evidence to a justice and constable of the authority of the officer or non-

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw. 7, c. 3), Vol. II, *see infra*

commissioned officer producing the same to demand carriages and animals in accordance with such route

(4) The warrant ordering carriages, animals and drivers to be provided shall specify the number and description of the carriages, and also the places from and to which the same are to travel, and the distances between such places

(5) When sufficient carriages or animals cannot be procured within the jurisdiction of the said justice, any justice having jurisdiction in the next adjoining place shall, by a like course of proceeding, supply the deficiency

(6) A fee of one shilling and of more shall be paid for the warrant by the officer or non-commissioned officer applying for the same and shall be paid to the clerk of the justice

Payment for
and regula-
tions as to
carriages,
animals, etc

113 (1) There shall be paid in respect of the carriages and animals furnished in pursuance of this part of this Act the rates specified in the Third Schedule to this Act, and the regulations contained in that schedule with respect to the carriages and animals furnished shall be duly observed.

(2) The following authorities, that is to say,

- (a) In England the court of general, or quarter sessions of a county or of a borough subject to the Municipal Corporations Act, 1882, and 45 & 46 Vict c 50
- (b) In Scotland, the commissioners of supply of a county, or the magistrates of a Royal or Parliamentary burgh, and
- (c) In Ireland, the grand jury for a county, a county of a city, a county of a town and city, or a city or town and county, also any council of any such county, town or city having by law the fiscal powers of a grand jury,

may from time to time, as respects places within their jurisdiction, by order increase the rates authorised in the said schedule by such amount in respect of each rate, not exceeding one-third, as may seem reasonable, and the amount of such increase shall be notified in writing by the justice granting a warrant in pursuance of this Act to the person demanding the warrant

(3) The order shall specify the average price of hay and oats at the nearest market town at the time of fixing such increased rates, and the order shall not be in force for more than ten days beyond the next meeting of such authority, but may be renewed from time to time by a fresh order or orders, and while in force shall have effect as part of the said schedule

(4) A copy of every such order, duly authenticated, shall be transmitted to ¹ [the Army Council] within three days after the making thereof

(5) The officer or non-commissioned officer who demands carriages or animals in pursuance of this part of this Act shall pay the sums due in respect of the same to the owners or drivers of the carriages or animals, and one-third part of such payment shall in each case, if required, be made

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol. II *see infra*.

before the carriage is loaded, and such payments shall be made, if required, in the presence of a justice or constable

(6) If an officer or non-commissioned officer is from any cause unable to pay the amount due to the owner or driver of any carriage or animal, he shall make up with such owner or driver and sign an account of the amount due to him and forthwith transmit the account so signed to ¹ [the Army Council] who shall forthwith cause the amount named therein to be paid to such owner or driver

114 —(1) ² [The authority hereinafter mentioned] for any place may cause annually a list to be made out of all persons in such place, or any particular part thereof, liable to furnish carriages and animals under this Act, and of the number and description of the carriages and animals of such persons, and where a list is so made, any justice may by warrant require any constable or constables having authority within such place to give from time to time, on demand by an officer or non-commissioned officer under this Act, orders to furnish carriages and animals, and such warrant shall be executed as if it were a special warrant issued in pursuance of this Act on such demand, and the orders shall specify the like particulars as such special warrant

Annual list of persons liable to supply carriages

³ (1-A) For the purpose of assisting the authority hereinafter mentioned in the preparation of such list as aforesaid, any proper officer authorised in that behalf by the authority shall be entitled at all reasonable times to enter any premises in which he has reason to believe that any carriages or animals are kept, and to inspect any carriages or animals which may be found therein

If any such officer so authorised is obstructed in the exercise of his powers under this provision, a justice of the peace may, if satisfied by information on oath that the officer has been so obstructed, issue a search warrant authorising the constable named therein, accompanied by the officer, to enter the premises in respect of which the obstruction took place at any time between six o'clock in the morning and nine o'clock in the evening, and to inspect any carriages or animals that may be found therein

In this provision the expression 'proper officer' means any officer or person of such rank, class, or description as may be specified in an order of the Army Council made for the purpose

(2) ² [The authority hereinafter mentioned] shall cause such list to be kept at some convenient place open for inspection at all reasonable times by persons interested, and any person who feels aggrieved either by being entered in such list, or by being entered to furnish any number or description of carriages or animals which he is not liable to furnish, may complain to a court of summary jurisdiction, and the court, after such notice as the court think necessary to persons interested, may order the list to be amended in such manner as the court may think just

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol. II, see *infra*

² Substituted for the words "the police authority" by 1 Geo 5, c 3, s 4 (1)

³ Added by 1 Geo 5, c 3, s 4 (2)

(3) All orders given by constables for furnishing carriages and animals shall, as far as possible, be made from such list in regular rotation

¹ (4) The authority for the purposes of this section shall, in England and Scotland, be either the police authority or the county association established under the Territorial and Reserve Forces Act, 1907, and in Ireland the police authority.

Supply of
carriages and
vessels in case
of emergency

115—(1) His Majesty by order, distinctly stating that a case of emergency exists, and signified by a Secretary of State, and also in Ireland the Lord Lieutenant by a like order, signified by the Chief Secretary or Under Secretary, may authorise any general or field officer commanding His Majesty's regular forces in any military district or place in the United Kingdom to issue a requisition under this section (hereinafter referred to as a requisition of emergency)

(2) The officer so authorised may issue requisition of emergency under his hand reciting the said order, and requiring justices of the peace to issue their warrants for the provision for the purpose mentioned in the requisition, of such carriages and animals as may be provided under the foregoing provisions, and also of carriages of every description, ² [including motor cars and other locomotives, whether for the purpose of carriage or haulage] and of horses of every description, whether kept for saddle or draught, and also of vessels (whether boats, barges, or other) used for the transport of any commodities whatsoever upon any canal or navigable river

(3) A justice of the peace, on demand by an officer of the portion of His Majesty's forces mentioned in a requisition of emergency, or by an officer of ³ [the Army Council] authorised in this behalf, and on production of the requisition, shall issue his warrant for the provision of such carriages, animals, and vessels as are stated by the officer producing the requisition of emergency to be required for the purpose mentioned in the requisition, the warrant shall be executed in the like manner, and all the provisions of this Act as to the provision of furnishing of carriages and animals, including those respecting fines on officers, non-commissioned officers, justices, constables, or owners of carriages or animals, shall apply in like manner as in the case where a justice issues, in pursuance of the foregoing provisions of this Act, a warrant for the provision of carriages and animals, and shall apply to vessels as if the expression carriages included vessels

(4) ³ [The Army Council] shall cause due payment to be made for carriages, animals, and vessels furnished in pursuance of this section, and any difference respecting the amount of payment for any carriage, animal, or vessel shall be determined by a county court judge having jurisdiction in any place in which such carriage, animal, or vessel was furnished¹ or through which it travelled in pursuance of the requisition

(5) Canal, river, or lock tolls are hereby declared not to be demandable

¹ Added by 1 Geo 5 c 3 s, 4 (1)

² The words were inserted by the Army (Annual) Act, 1909, (9 Edw 7, c 3), s 5(1), Vol II, *see infra*

³ These words were substituted by the Army (Annual) Act, 1909, (9 Edw. 7, c 3), Vol II, *see infra*

for vessels while employed in any service in pursuance of this section or returning therefrom. And any toll collector who demands or receives toll in contravention of this exemption shall, on summary conviction, be liable to a fine not exceeding five pounds nor less than ten shillings.

(6) A requisition of emergency, purported to be issued in pursuance of this section and to be signed by an officer therein stated to be authorised in accordance with this section, shall be evidence, until the contrary is proved, of its being duly issued and signed in pursuance of this Act, and if delivered to an officer of His Majesty's forces or of ¹ [the Army Council] shall be a sufficient authority to such officer to demand carriages, animals, and vessels in pursuance of this section, and when produced by such officer shall be conclusive evidence to a justice and constable of the authority of such officer to demand carriages, animals, and vessels in accordance with such requisition, and it shall be lawful to convey on such carriages, animals, and vessels, not only the baggage, provisions, and military stores of the troops mentioned in the requisition of emergency, but also the officers, soldiers, servants, women, children and other persons of and belonging to the same.

(7) Whenever a proclamation ordering the Army Reserve to be called out on permanent service or an order for the embodiment of the militia is in force the order of His Majesty authorising an officer to issue a requisition of emergency may authorise him to extend such requisition to the provision of carriages, animals, and vessels for the purpose of being purchased, as well as of being hired, on behalf of the Crown.

(8) Where a justice, on demand by an officer and on production of a requisition of emergency, has issued his warrant for the provision of any carriages, animals or vessels, and any person ordered in pursuance of such warrant to furnish a carriage, animal, or vessel refuses or neglects to furnish the same according to the order, then, if a proclamation ordering the Army Reserve to be called out on permanent service, or an order for the embodiment of the militia is in force, the said officer may seize (and if need be by force) the said carriage, animal, or vessel, and may use the same in like manner as if it had been furnished in pursuance of the order, but the said person shall be entitled to payment for the same in like manner as if he had duly furnished the same according to the order.

² [(9) The Army Council may, by regulations under the Territorial and Reserve Forces Act, 1907, assign to county associations established under that Act the duty of furnishing, in accordance with the directions of the Army Council, such carriages, animals, and vessels as may be required on mobilisation for the regular or auxiliary forces, or any part thereof, and where such regulations are made an officer of a county association shall have the same powers as are by this section conferred on an officer of the Army Council.]

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol II, see *infra*.

² Sub section (9) was added by the Army (Annual) Act, 1909 (9 Edw 7, c 3), s 5(2), Vol II, see *infra*.

Offences in relation to the Impressment of Carriages

Offences by
constables.

116 Any constable who—

- (1) Neglects or refuses to execute any warrant of a justice, requiring him to provide carriages, animals, or vessels, or
- (2) Receives, demands, or agrees for any money or reward whatsoever to excuse or relieve any person from being entered in a list as liable to furnish or from being required to furnish, or from furnishing any carriage, animal, or vessel, or
- (3) Orders any carriage, animal, or vessel to be furnished for any person or purpose or on any occasion for and on which it is not required by this Act to be furnished,

shall, on summary conviction, be liable to a fine of not less than twenty shillings nor more than twenty pounds

Offences by
persons
ordered to
furnish car-
riages,
animals, or
vessels

117 A person ordered by any constable in pursuance of this Act to furnish a carriage, animal, or vessel who—

- (1) Refuses or neglects to furnish the same according to the orders of such constable and this Act, or
- (2) Gives or agrees to give to a constable or to any officer or non-commissioned officer any money or reward whatsoever to be excused from being entered in a list as liable to furnish, or from being required to furnish, or from furnishing, or in lieu of furnishing, any carriage, animal, or vessel in pursuance of this Act, or
- (3) Does any act or thing by which the execution of any warrant or order for providing or furnishing carriages, animals, or vessels is hindered,

shall, on summary conviction, be liable to pay a fine of not less than forty shillings nor more than ten pounds

Offences by
officers or
soldiers

118—(1) Any officer or soldier who commits any offence in relation to the impressment of carriages, for which he is liable to be punished under Part one of this Act, other than an offence in respect of which any other remedy is given by this part of this Act to the person aggrieved, shall, on summary conviction, be liable to a fine not exceeding fifty pounds nor less than forty shillings

(2) A certificate of a conviction for an offence under this section shall be transmitted by the court making such conviction to ¹ [the Army Council].

Supplemental Provisions as to Billeting and Impressment of Carriages

Application
to court of
summary
jurisdiction
respecting
sums due

119—(1) The following persons, that is to say,—

- (a) If any officer or soldier fails to comply with the provisions of this part of this Act with respect to the payment of a sum due to a keeper of a victualling house or in respect of carriages or animals,

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw. 7, c. 3), Vol II. *see infra*.

or to the making up of an account of the sum due, the person to whom the sum is due, or

- (b) If a keeper of a victualling house suffers any ill-treatment by violence, extortion, or making disturbance in billets from any officer or soldier billeted upon him, or if the owner or driver of any carriage, animal, or vessel furnished in pursuance of this part of this Act suffers any ill-treatment from any officer or soldier, the person suffering such ill-treatment, but, when there is an officer commanding such officer or soldier present at the place only after first making due complaint if practicable to such commanding officer,

to keepers of
victualling
houses or
owners of
carriages,
etc

may apply to a court of summary jurisdiction, and such court, if satisfied on oath of such failure or such ill-treatment, and of the amount fairly due to the applicant including the costs of his application to the court of summary jurisdiction, shall certify the same to ¹ [the Army Council], who shall forthwith cause the amount due to be paid

(2) Provided that ¹ [the Army Council], if it appear to him that the amount named in such certificate is not justly due, or is in excess of the amount justly due, may direct a complaint to be made to a court of summary jurisdiction for the county, borough, or place for which the court giving the certificate acted, and the court after hearing the case may by order confirm the said certificate or vary it in such manner as to the court seems just

120—(1) A constable shall observe the directions given to him for the due execution of this part of this Act by the police authority, and the police authority, or any member thereof, and every justice of the peace may, if it seem necessary, and in the absence of a constable shall, themselves or himself exercise the powers and perform the duties by this part of this Act vested in or imposed on a constable, and in such case every such person is in this part of this Act included in the expression “constable”

Provisions as
to constables,
police autho-
rities, and
justices

(2) A person having or executing any military office or commission in any part of the United Kingdom shall not, directly or indirectly, be concerned as a justice or constable, in the billeting of or appointing quarters for any officer or soldier or horse of the corps, or part of a corps, under his immediate command, and all warrants, acts, and things made, done, and appointed by such person for or concerning the same shall be void

121 If any person—

- (1) Forges or counterfeits any route or requisition of emergency, or knowingly produces to a justice or constable any route or requisition of emergency so forged or counterfeited, or
- (2) Personates or represents himself to be an officer or soldier authorised to demand any billet, or any carriage, animal, or vessel, or to be entitled to be billeted, or to have his horse billeted, or

Fraudulent
claim for
carriages,
animals, etc

¹ These words were substituted by the Army (Annual) Act, 1909, (9 Edw. 7, c. 5) Vol. II, sec. 117a

- (3) Produces to a justice or constable a route on requisition which he is not authorised to produce, or a document falsely purporting to be a route or requisition,
he shall be liable, on summary conviction, to imprisonment for a period not exceeding three months, with or without hard labour, or to a fine not less than twenty shillings and not more than five pounds.

PART IV.

GENERAL PROVISIONS.

Supplemental Provisions as to Courts-Martial

Royal
warrant
required for
convening
and confirm-
ing general
courts-
martial.

122.—(1) His Majesty may, subject to the provisions of this Act, by any warrant or warrants under His Sign Manual, in such form as His Majesty may from time to time direct, from time to time—

- (a) Convene or authorise any qualified officer to convene a general court-martial for the trial under this Act of any person subject to military law, and
- (b) Give a general authority to any qualified officer to convene general courts-martial for the trial, under this Act, of such persons subject to military law as may for the time being be under or within the territorial limits of his command, and
- (c) Empower any qualified officer to delegate to any officer under his command, not below the degree of field officer, a general authority to convene general courts-martial for the trial, under this Act, of such persons subject to military law, as are for the time being under or within the territorial limits of his command, and
- (d) Reserve for confirmation by His Majesty, or empower any qualified officer to confirm, the findings and sentences of general courts-martial, and
- (e) Empower any officer for the time being authorised to confirm the findings and sentences of general courts-martial to reserve for confirmation findings or sentences of general courts-martial, or to delegate a power of confirming such findings or sentences to any officer under his command not below the degree of field officer, and
- (f) Revoke any warrant for the time being in force, or any part of any warrant, leaving the remainder in full force

Provided that where it appears to His Majesty that, in any place out of the United Kingdom, where no field officer is for the time being in command, hardship would be inflicted on persons accused of offences by reason of there being no means of speedily trying such persons for offences, a warrant under this section may empower an officer to delegate to an officer not below the degree of captain any authority and power authorised under this section to be delegated to a field officer

(2) The same officer may or may not be appointed convening and confirming officer.

(3) The power of convening general courts-martial, and of confirming the findings and sentences of general courts-martial, or either of such powers, may be granted subject to such restrictions, reservations, exceptions and conditions as to His Majesty may seem meet, and when delegated by any officer empowered in that behalf may, subject to the provisions of any warrant granting him such power, be delegated subject to such restrictions, reservations, exceptions, and conditions as to such officer may seem fit.

(4) Warrants under this section may be addressed to officers by name or by designation of their offices, or partly in one way and partly in the other, and any warrant may or may not, according to the terms of such warrant and the mode in which the same is addressed, be limited to an officer named, or be extended to a person for the time being performing the duties of the office named, or be extended to the successors in command of an officer.

(5) Any warrant of His Majesty issued in pursuance of this section shall be of the same force as if the provisions thereof were enacted by this Act

(6) " Qualified officer " for the purposes of this Act in so far as it relates to convening or confirming the findings and sentences of general courts-martial, means ¹ any officer not below the rank of a field officer commanding for the time being any body of the regular forces either within or without His Majesty's dominions it also includes the Lord Lieutenant of Ireland, the Governor-General of India and a Governor of any colony² [on whom the command of any part of His Majesty's forces may be conferred]

(3) The power of convening, and of confirming the findings and sentences of, district courts-martial, or either of such powers, may be granted under this section, subject to such restrictions, reservations, exceptions, and conditions as to the officer granting such power may seem meet

(4) Any authority under this section for convening district courts-martial may be addressed to an officer by name or by designation of his office, or partly in one way and partly in the other, and may, or may not, according to the terms thereof and the mode in which the same is addressed, be limited to an officer named, or be extended to a person holding for the time being or performing the duties of the office, or be extended to the successors in command of such officer

Right of
person tried
to copy of
proceedings
of court-
martial

124. Any person tried by a court-martial shall be entitled, on demand at any time in the case of a general court-martial within seven years, and in the case of any other court-martial within three years, after the confirmation of the finding and sentence of the court, to obtain from the officer or person having the custody of proceedings of such court a copy thereof, including the proceedings with respect to the revision and confirmation thereof, upon payment for the same at the prescribed rate, not exceeding two pence for every folio of seventy-two words, and for the purposes of this section the proceedings of courts-martial shall be preserved in the prescribed manner

Summoning
and privilege
of witnesses
at courts
martial

125.—(1) Every person required to give evidence before a court-martial may be summoned or ordered to attend in the prescribed manner

(2) Every person attending in pursuance of such summons or order as a witness before any court-martial shall, during his necessary attendance in or on such court, and in going to and returning from the same, have the same privilege from arrest as he would have if he were a witness before a superior court of civil jurisdiction

Misconduct
of civilian at
court-martial

126.—(1) Where any person who is not subject to military law commits any of the following offences, that is to say,

(a) On being duly summoned as a witness before a court-martial, and after payment or tender of the reasonable expenses of his attendance, makes default in attending, or

(b) Being in attendance as a witness—

(i) Refuses to take an oath legally required by a court-martial to be taken, or

(ii) Refuses to produce any document in his power or control legally required by a court-martial to be produced by him, or

(iii) Refuses to answer any question to which a court-martial may legally require an answer,

the president of the court-martial may certify the offence of such person under his hand to any court of law in the part of His Majesty's dominions where the offence is committed which has power to punish witnesses if guilty of like offences in that court, and that court may thereupon inquire into such alleged offence, and after examination of any witnesses that may be produced against

or for the person so accused, and after hearing any statement that may be offered in defence, if it seem just, punish such witness in like manner as if he had committed such offence in a proceeding in that court

(2) Where a person not subject to military law when examined on oath or solemn declaration before a court-martial wilfully gives false evidence, he shall be liable on indictment or information to be convicted of and punished for the offence of perjury, or the offence by whatever name called in the part of His Majesty's dominions in which the offence is tried which, if committed in England, would be perjury

(3) Where a person not subject to military law is guilty of any contempt towards a court-martial, by using insulting or threatening language, or by causing any interruption or disturbance in its proceedings, or by printing observations or using words calculated to influence the members of or witnesses before such court, or to bring such court into disrepute, the president of the court-martial may certify the offence of such person, under his hand, to any court of law in the part of His Majesty's dominions where the offence is committed which has power to commit for contempt, and that court may thereupon inquire into such alleged offence, and after hearing any witnesses that may be produced against or on behalf of the person so accused, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of such person in like manner as if he had been guilty of contempt of that court

127. A court-martial under this Act shall not, as respects the conduct of its proceedings, or the reception or rejection of evidence, or as respects any other matter or thing whatsoever, be subject to the provisions of the Indian Evidence Act, 1872, or to any Act, law, or ordinance of any legislature whatsoever other than the Parliament of the United Kingdom Court martial governed by English law only

128. The rules of evidence to be adopted in proceedings before courts-martial shall be the same as those which are followed in civil courts in England, and no person shall be required to answer any question or to produce any document which he could not be required to answer or produce in similar proceedings before a civil court Rules of evidence to be the same as in civil courts

129. Whereas it is expedient to make provision respecting the conduct of counsel when appearing on behalf of the prosecution or defence at courts-martial in pursuance of rules under this Act, be it therefore enacted as follows — Position of counsel at courts-martial

(1) Any conduct of a counsel which would be liable to censure, or a contempt of court, if it took place before His Majesty's High Court of Justice in England, shall likewise be deemed liable to censure, or a contempt of court, in the case of a court-martial, and the rules laid down for the practice of courts-martial and the guidance of counsel shall be binding on counsel appearing before such courts-martial, and any wilful disobedience of such rules shall be professional misconduct and, if persevered in, be deemed a contempt of court.

of military
prisons

control of the Secretary of State or Governor-General as a military prison or detention barrack, or as a public prison for the imprisonment of military prisoners, and to declare that any such building or part of a building shall be a military prison or detention barrack, or a public prison, as the case may be, and every military prison so declared shall be deemed to be a public prison within the meaning of the provisions of this Act relating to imprisonment, and if such prison is in India shall be deemed to be an authorised prison

(2) It shall be for a Secretary of State and in India for the Governor-General, from time to time to make, alter, and repeal rules for the government, management, and regulation of military prisons and detention barracks, and for the appointment and removal and powers of inspectors, visitors, governors and officers thereof, and for the labour of military or other prisoners and soldiers undergoing detention therein, and for enabling such prisoners or soldiers to earn, by special industry and good conduct, a remission of a portion of their sentence, and for the safe custody of such prisoners or soldiers, and for the maintenance of discipline among them, and for the punishment by personal correction, restraint, or otherwise of offences committed by such prisoners or soldiers, so, however, that such rules shall not authorise corporal punishment to be inflicted for any offence, nor render the imprisonment or detention more severe than it is under the law in force for the time being in any public prison in England, subject to the Prison Act, 1877, and provided ^{23 & 29 Vict.} that all the regulations made under the Prison Act, 1898, as to the duties of ^{c 126} gaolers and medical officers and all regulations contained in the Coroners ^{40 & 41 Vict.} Act, 1887, as to the duties of coroners with respect to inquests in prisons and detention barracks, shall be contained in such rules, so far as the same can be made applicable ^{c 21}

(3) On all occasions of death by violence or attended with suspicious circumstances in any military prison or detention barrack in India an inquest is to be held, to make inquiry into the cause of death. The commanding officer shall cause notice to be given to the nearest magistrate, duly authorised to hold inquests, and such magistrate shall hold an inquest into the cause of any such death, in the manner and with the powers provided in the case of similar inquiries held under the law for the time being in force in India for regulating criminal procedure.

(4) Where from any cause there is no competent civil authority available, the commanding officer shall convene a court of inquest. Such court shall be convened and shall hold the inquest in such manner as may be prescribed.

(5) Such rules may apply to such prisons and detention barracks any enactments of the Prison Act, 1865, imposing punishments on any persons ^{23 & 29 Vict.} not prisoners ^{c 126}

(6) All rules made by a Secretary of State in pursuance of this section shall be laid before Parliament as soon as practicable after they are made, if Parliament be then sitting, and if not, as soon as practicable after the commencement of the then next session of Parliament.

(7) In any country in which operations against the enemy are being conducted, the powers of a Secretary of State under this section with respect to military prisons and detention barracks shall be exerciseable by the officer commanding-in-chief in the field, and shall include a power of declaring any place to be a military prison or a detention barrack, and the limitations on the power of making rules as to the punishment of prisoners and soldiers undergoing detention and as to the severity of imprisonment and detention shall not apply. Provided that nothing in this sub-section, or in any rules made thereunder, shall authorise flogging or other corporal punishment to be inflicted for any offence.

134. No soldiers shall be confined longer than is absolutely necessary in prisons, other than military prisons, in India and the colonies where the rules for the government and management of such prisons differ from those made by the Governor-General of India and a Secretary of State in the case of India and the colonies, respectively.

Restrictions on confinement in prisons in India or colonies, not being military prisons
Classification of prisoners

135. Whereas it is expedient that a clear difference should be made between the treatment of prisoners convicted of breaches of discipline and the treatment of prisoners convicted of offences of an immoral, dishonest, shameful, or criminal character, or sentenced to be discharged from the Service with ignominy, a Secretary of State shall from time to time make rules for the classification and treatment of such prisoners.

Pay

136. The pay of an officer or soldier of His Majesty's regular forces shall be paid without any deduction other than the deductions authorised by this or any other Act or by any Royal Warrant for the time being, or by any law passed by the Governor-General of India in Council.

Authorised deductions only to be made from pay

137. The following penal deductions may be made from the ordinary pay due to an officer of the regular forces —

Penal stop pages from ordinary pay of officers

- (1) All ordinary pay due to an officer who absents himself without leave or overstays the period for which leave of absence has been granted him, unless a satisfactory explanation has been given through the commanding officer of such officer, and has been [¹approved by the Army Council]
- (2) The sum required to make good such compensation for any expenses, loss, damage, or destruction occasioned by the commission of any offence as may be awarded by the court-martial by whom he is convicted of such offence
- (3) The sum required to make good the pay of any officer or soldier which he has unlawfully retained or unlawfully refused to pay
- (4) The sum required to make good any loss, damage, or destruction of public property which after due investigation, appears to [¹the

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw. 7 c. 3, Pt. II, *see infra*.

Army Council] [or in the case of officers serving in India the Governor-General]¹ to have been occasioned by any wrongful act or negligence on the part of the officer

[Provided that where deductions have been so made from the pay of an officer serving in India the case shall, if he so require, be reported to the Secretary of State for India in Council, who may make such order thereon as he thinks fit]

Penal stop
pages from
ordinary pay
of soldiers

138 The following penal deductions may be made from the ordinary pay due to a soldier of the regular forces —

- (1) All ordinary pay for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment awarded by a civil court or court-martial, or, if he is on board one of His Majesty's ships, by the commanding officer of that ship, for every day of detention or field punishment awarded by a court-martial or by his commanding officer, and for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a civil court or court-martial, or on a charge of absence without leave for which he is afterwards awarded detention or field punishment by his commanding officer
- (2) All ordinary pay for every day on which is in hospital on account of sickness certified by the proper medical officer attending on him at the hospital to have been caused by an offence under this Act committed by him
- (3) The sum required to make good such compensation for any expenses, loss, damage, or destruction occasioned by the commission of any offence as may be awarded by the court-martial by whom he is convicted of such offence, or if he is on board one of His Majesty's ships, by the commanding officer of that ship, or where he has confessed the offence and his trial is dispensed with by order under section seventy-three of this Act as may be awarded by that order or by any other order of a competent military authority under that section
- (4) The sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, or regimental necessaries or military decoration, or to any buildings or property, as may be awarded by his commanding officer, or, in case he requires to be tried by a court-martial, by that court-martial, or if he is on board one of His Majesty's ships, by the commanding officer of that ship
- (5) Where a soldier at the time of his enlistment belonged to any part of the auxiliary forces, the sum required to make good any compensation for which at the time of his enlistment he was under stoppage

¹ Inserted by the Army (Annual) Act 1912 (2 Geo 5, c 5) s 4, Vol. II, *see infra*.

of pay as a member of the auxiliary forces, and any sum which he is liable to pay by reason of his quitting the said part of the auxiliary forces upon his enlistment

- (6) Where a soldier's liquor ration is stopped by his commanding officer on board any ship, whether commissioned by His Majesty or not, the sum equivalent to such ration, whether previously drawn by the soldier or not, not exceeding one penny a day for twenty-eight days
- (7) The sum required to pay a fine awarded by a court-martial, his commanding officer, or a civil court, and
- (8) The sum required to pay any sum ordered by [¹the Army Council,] or any officer deputed by him for the purpose, to be paid as mentioned in this Act for the maintenance of his wife or child, or of any bastard child, or towards the cost of any relief given by way of loan to his wife or child

Provided that—

- (a) the total amount of deductions from the ordinary pay due to a soldier in respect of the sums required to pay any compensation, fine, or sum awarded or ordered to be paid as aforesaid shall not exceed such sum as will leave to the soldier, after paying for his messing and washing, less than one penny a day, and
- (b) a person shall not be subjected in respect of any compensation, fine, or sum awarded or ordered to be paid as aforesaid to any deductions greater than is sufficient to make good the expenses, loss, damage, or destruction for which such compensation is awarded, or to pay the said sum, and
- (c) where a soldier who is sentenced or ordered in respect of an offence on active service to forfeit all ordinary pay is liable to any other penal deductions from pay, the sentence or order shall apply only to so much of his ordinary pay as remains after those other deductions have been made

139. Any deduction of pay authorised by this Act may be remitted in such manner and by such authority as may be from time to time provided by Royal Warrant, and subject to the provisions of any such warrant may be remitted by [¹the Army Council]

140—(1) Any sum authorised by this Act to be deducted from the ordinary pay of an officer or soldier may, without prejudice to any other mode of recovering the same, be deducted from the ordinary pay or from any sums due to such officer or soldier, in such manner, and when deducted or recovered may be appropriated in such manner, as may be from time to time directed by any regulation or order of [¹the Army Council]

(2) And any such regulation or order may from time to time declare what shall be deemed for the purposes of the provisions of this Act relating to deduc-

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7 c 3), Vol. II
es infra.

tions from pay to constitute a day of absence or a day of imprisonment or detention, so, however, that no time shall be so reckoned as a day unless the absence or imprisonment or detention has lasted for six hours or upwards, whether wholly in one day or partly in one day and partly in another, or unless such absence prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person

(3) In cases of doubt as to the proper issue of pay or the proper deduction from pay due to any officer or soldier, the pay may be withheld until His Majesty's order respecting it has been signified through a Secretary of State, which order shall be final

Prohibition of
assignment of
military pay,
pensions, etc

141. Every assignment of, and every charge on, and every agreement to assign or charge any deferred pay, or military reward payable to any officer or soldier of any of His Majesty's forces, or any pension, allowance, or relief payable to any such officer or soldier, or his widow, child, or other relative, or to any person in respect of any military service, shall, except so far as the same is made in pursuance of a Royal Warrant for the benefit of the family of the person entitled thereto, or as may be authorised by any Act for the time being in force, be void

Punishment
of false oath
and personation

142 —(1) Where any regulations made by [¹the Army Council] or the Commissioners of His Majesty's Treasury, with respect to the payment of any military reward, pension, or allowance, or any sum payable in respect of military service or with respect to the payment of money or delivery of property in the possession of the military authorities, provide for proving, whether on oath or by statutory declaration, the identity of the recipient or any other matter in connexion with such payment, such oath may be administered and declaration taken by the persons specified in the regulations, and any person who in such oath or declaration wilfully makes any false statement shall be liable to the punishment of perjury

(2) Any person who falsely represents himself to any military, naval, or civil authority to belong to, or to be a particular man in, the regular reserve or auxiliary forces shall be deemed to be guilty of personation

(3) Any person who is guilty of an offence under the False Personation Act, 37 & 38 Vict. 1874, in relation to any military pay, reward, pension, or allowance, or to any sum payable in respect of military service, or to any money or property in the possession of the military authorities, or is guilty of personation under this section, shall be liable, on summary conviction, to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding twenty-five pounds

(4) Provided that nothing in this section shall prevent any person from being proceeded against and punished under any other enactment or at common law in respect of any offence, so that he be not punished twice for the same offence

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw. 7, c. 3), Vol II, see *infra*

Exemptions of Officers and Soldiers

143.—(1) All officers and soldiers of His Majesty's regular forces on duty or on the march, and

Exemptions
of officers and
soldiers from
tolls

Their horses and baggage, and

All prisoners under military escort, and

All carriages and horses belonging to His Majesty or employed in his military service, when conveying any such persons as above in this section mentioned, or baggage or stores, or returning from conveying the same,

shall be exempted from payment of any duties or tolls on embarking or disembarking from or upon any pier, wharf, quay, or landing-place, or in passing along or over any turnpike or other road or bridge, otherwise demandable by virtue of any Act of Parliament already passed or hereafter to be passed, or by virtue of any Act, Ordinance, order, or direction of the legislature or other authority in India or any colony

Provided that nothing in this section shall exempt any boats, barges, or other vessels employed in conveying the said persons, horses, baggage, or stores along any canal from payment of tolls in like manner as other boats, barges, and vessels

(2) When any soldiers have occasion in their march by route to pass regular ferries in Scotland, the officer commanding may, at his option, pass over with his soldiers as passengers, and shall pay for himself and each soldier one half only of the ordinary rate payable by single persons, or may hire the ferry boat for himself and his party, debarring others for that time and shall in all such cases pay only half the ordinary rate for such boat

(3) Any person who demands and receives any duty, toll, or rate in contravention of this section shall, on summary conviction, be liable to a fine not exceeding five pounds nor less than ten shillings

144 —(1) A soldier of His Majesty's regular forces shall not be liable to be taken out of His Majesty's service by process, execution, or order of any court of law or otherwise, or to be compelled to appear in person before any court of law, except in respect of the following matters, or one of them, that is to say,

(a) On account of a charge of or conviction for crime, or

(b) On account of any debt, damages, or sum of money, when the amount exceeds thirty pounds over and above all costs of suit

(2) For the purposes of this section a crime shall mean a felony, misdemeanor, or other crime or offence punishable, according to the law in force in that part of His Majesty's dominions in which such soldier is, with fine or imprisonment or some greater punishment, and shall not include the offence of a person absenting himself from his service, or neglecting to fulfil his contract, or otherwise misconducting himself respecting his contract

(3) For the purposes of this section a court of law shall be deemed to include a court of summary jurisdiction and any magistrate.

(4) The amount of the debt, damages, or sum shall be proved for the purpose of any process issued before the court has adjudicated on the case by an affidavit of the person seeking to recover the same or of some one on his behalf and such affidavit shall be sworn, without payment of any fee, in the manner in which affidavits are sworn in the court in which proceedings are taken for the recovery of the sum, and a memorandum of such affidavit shall, without fee, be indorsed upon any process or order issued against a soldier

(5) All proceedings and documents in or incidental to a process, execution, or order in contravention of this section shall be void, and where complaint is made by a soldier or his commanding officer that such soldier is dealt with in contravention of this section by any process, execution, or order issued out of any court, and is made to that court or to any court superior to it, the court or some judge thereof shall examine into the complaint, and shall, if necessary, discharge such soldier without fee, and may award reasonable costs to the complainant, which may be recovered as if costs had been awarded in his favour in any action or other proceeding in such court

Provided that—

- (1) Any person having cause of action or suit against a soldier of the regular forces may notwithstanding anything in this section, after due notice in writing given to the soldier, or left at his last quarters, proceed in such action or suit to judgment, and have execution other than against the person, pay, arms, ammunition, equipments, regimental necessities, or clothing of such soldier, and
- (2) This section shall not prevent such proceedings with respect to apprentices and indentured labourers as is authorised by this Act

Liability of
soldier to
maintain wife
and children

145—(1) A soldier of the regular forces shall be liable to contribute to the maintenance of his wife and of his children, and also to the maintenance of any bastard child of which he may be proved to be the father, to the same extent as if he were not a soldier, but execution in respect of any such liability or of any order or decree in respect of such maintenance shall not issue against his person, pay, arms, ammunition, equipments, instruments, regimental necessities, or clothing, nor shall he be liable to be punished for the offence of deserting or neglecting to maintain his wife or family, or any member thereof, or of leaving her or them chargeable to any union, parish, or place

(2) When any order or decree is made under any Act or at common law for payment by a man who is or subsequently becomes a soldier of the regular forces either of the cost of the maintenance of his wife or child, or of any bastard child of whom he is the putative father, or of the cost of any relief given to his wife or child by way of loan, a copy of such order or decree shall be sent to [¹the Army Council,] or any officer deputed by him for the purpose, and in the case—

(a) Of such order or decree being so sent, or

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7. c 3), Vol II, see *infra*.

(b) Of it appearing to the satisfaction of a Secretary of State that a soldier of the regular forces has deserted or left in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under fourteen years of age,

[¹the Army Council] or officer shall order a portion not exceeding in respect of a wife or children one shilling and ¹[in respect of a bastard child seven pence] of the daily pay of a non-commissioned officer who is not below the rank of sergeant—and not exceeding in respect of a wife or children sixpence, and ¹[in respect of a bastard child four pence] of the daily pay of any other soldier, to be deducted from such daily pay and to be appropriated in liquidation of the sum adjudged to be paid by such order or decree, or towards the maintenance of such wife or children, as the case may be, in such manner as [²the Army Council] or officer thinks fit

(3) Where a proceeding is instituted against a soldier of the regular forces under any Act, or at common law, for the purpose of enforcing against him any such liability as above in this section mentioned, and such soldier is quartered out of the jurisdiction of the court, or, if the proceeding is before a court of summary jurisdiction, out of the petty sessional division in which the proceeding is instituted, the process shall be served on the commanding officer of such soldier, and such service shall not be valid unless there be left therewith, in the hands of the commanding officer, a sum of money (to be adjudged as costs incurred in obtaining the order or decree, if made against the soldier) sufficient to enable him to attend the hearing of the case and return to his quarters, and such sum may be expended by the commanding officer for that purpose, and no process whatever under any Act or at common law in any proceeding in this section mentioned shall be valid against a soldier of the regular forces if served after such soldier is under orders for service beyond the seas

³[Where, by an order or decree sent to the Army Council or officer in accordance with sub-section (2) of this section, the soldier is adjudged to pay as costs incurred in obtaining the order or decree any sum left in the hands of the commanding officer under this sub-section, the Army Council may cause a sum equal to the sum so left to be paid in liquidation of the sum so adjudged to be paid as costs, and the amount so paid by the Army Council shall be a public debt from the soldier against whom the order or decree was made, and, without prejudice to any other method of recovery, may be recovered by deductions from his daily pay, in addition to those mentioned in sub-section (2) of this section]

146. An officer of the regular forces on the active list within the meaning of any Royal Warrant for regulating the pay and promotion of the regular forces shall not be capable of being nominated or elected to be sheriff of any Officers not to be sheriffs or mayors

¹ These words were substituted by the Army (Annual) Act, 1912 (2 Geo 5, c 5) s 5 (1), Vol II, *see infra*

² These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol II *see infra*

³ Added by 1 Geo 5 c 3, s 5

county, borough, or other place, or to be mayor or alderman of, or to hold any office in, any municipal corporation in any city, borough, or place in the United Kingdom Provided that nothing in this section shall disqualify any officer for being elected to or being a member of a county council

Exemption
from jury

147. Every soldier in His Majesty's regular forces shall be exempt from serving on any jury

[*Ss 148-150 rep 51 & 52 Vict c 4 s 6 Sec 151 rep*]

Legal Penalties in Matters respecting Forces.

Punishment
for pretend-
ing to be a
deserter

152. Any person who falsely represents himself to any military, naval, or civil authority to be a deserter from His Majesty's regular forces shall on summary conviction be sentenced to be imprisoned, with or without hard labour, for any period not exceeding three months

Punishment
for inducing
soldiers to
desert.

153. Any person who in the United Kingdom or elsewhere by any means whatsoever—

(1) Procures or persuades any soldier to desert, or attempts to procure or persuade any soldier to desert, or

(2) Knowing that a soldier is about to desert, aids or assists him in deserting, or

(3) Knowing any soldier to be a deserter, conceals such soldier, or aids or assists him in concealing himself, or aids or assists in his rescue,

shall be liable on summary conviction, to be imprisoned, with or without hard labour, for a term not exceeding six months

Apprehension
of deserters

154. With respect to deserters the following provisions shall have effect —

(1) Upon reasonable suspicion that a person is a deserter, it shall be lawful for any constable, or if no constable can be immediately met with, then for any officer or soldier or other person, to apprehend such suspected person, and forthwith to bring him before a court of summary jurisdiction

(2) A justice of the peace, magistrate, or other person having authority to issue a warrant for the apprehension of a person charged with crime may, if satisfied by evidence on oath that a deserter is or is reasonably suspected to be within his jurisdiction, issue a warrant authorising such deserter to be apprehended and brought forthwith before a court of summary jurisdiction

(3) Where a person is brought before a court of summary jurisdiction charged with being a deserter under this Act, such court may deal with the case in like manner as if such person were brought before the court charged with an indictable offence, or in Scotland an offence

(4) The court, if satisfied either by evidence on oath or by the confession of such person that he is a deserter, shall forthwith, as it may seem to the court most expedient with regard to his safe custody, cause him either to be delivered into military custody in such manner

as the court may deem most expedient, or, until he can be so delivered, to be committed to some prison, police station, or other place legally provided for the confinement of persons in custody, for such reasonable time as appears to the court reasonably necessary for the purpose of delivering him into military custody

- (5) Where the person confessed himself to be a deserter, and evidence of the truth or falsehood of such confession is not then forthcoming, the court shall remand such person for the purpose of obtaining information as to the truth or falsehood of the said confession, and for that purpose the court shall transmit, if sitting in the United Kingdom, to [¹the Army Council,] or as he may direct, and if in India to the general or other officer commanding the forces in the military district or station where the court sits, and if in a colony to the general or other officer commanding the forces in that colony, a return (in this Act referred to as a descriptive return) containing such particulars and being in such form as is specified in the Fourth Schedule to this Act, or as may be from time to time directed by [¹the Army Council]
- (6) The court may from time to time remand the said person for a period not exceeding eight days in each instance and not exceeding in the whole such period as appears to the court reasonably necessary for the purpose of obtaining the said information
- (7) Where the court cause a person either to be delivered into military custody or to be committed as a deserter, the court shall send, if in the United Kingdom, to [¹the Army Council,] or as he may direct, and if in India or a colony, to the general or other officer commanding as aforesaid, a descriptive return in relation to such deserter, for which the clerk of the court shall be entitled to a fee of two shillings
- (8) [¹The Army Council] shall direct payment of the said fee

155. Every person (except the Army Purchase Commissioners and persons acting under thier authority by virtue of the Regulation of the Forces Act, 1871) who negotiates, acts as agent for, or otherwise aids or connives at—

Penalty on trafficking in commissions
34 & 35 Vict
c 86

- (1) The sale or purchase of any commission in His Majesty's regular forces, or
- (2) The giving or receiving of any valuable consideration in respect of any promotion in or retirement from such forces, or any employment therein, or
- (3) Any exchange which is made in manner not authorised by regulations made in pursuance of the Regimental Exchanges Act, 1875, and in respect of which any sum of money or other consideration is given or received,

38 & 39 Vict
c 16

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw. 7, c. 3), Vol. II, *see infra*

shall be liable on conviction on indictment or information to a fine of one hundred pounds, or to imprisonment for any period not exceeding six months and if an officer, on conviction by court-martial, to be dismissed the service

Penalty on
purchasing
from soldier
regimental
necessaries,
equipments,
stores, etc

156—(1) Every person who—

- (a) Buys, exchanges, takes in pawn, detains, or receives from a soldier, or any person acting on his behalf, on any pretence whatsoever, or
- (b) Solicits or entices any soldier to sell, exchange, pawn, or give away, or
- (c) Assists or acts for a soldier in selling, exchanging, pawning, or making away with,

any of the property following, namely, any arms, ammunition, equipments, instruments, regimental necessaries, or clothing, or any military decorations of an officer or soldier, or any furniture, bedding, blankets, sheets, utensils and stores in regimental charge, or any provisions or forage issued for the use of an officer or soldier, or his horse, or of any horse employed in His Majesty's Service, shall, unless he proves either that he acted in ignorance of the same being such property as aforesaid, or of the person with whom he dealt being or acting for a soldier, or that the same was sold by order of [the Army Council] or some competent military authority, be liable on summary conviction, in the case of the first offence, to a fine not exceeding twenty pounds, together with treble the value of any property of which such offender has become possessed by means of his offence, and in the case of a second offence to a fine not less than five pounds, and not exceeding twenty pounds, together with treble the value of any property of which such offender has become possessed by means of his offence, or to imprisonment, with or without hard labour, for a term not exceeding six months

(2) Where any such property as above in this section mentioned is found in the possession or keeping of any person, such person may be taken or summoned before a court of summary jurisdiction, and if such court have reasonable ground to believe that the property so found was stolen, or was bought, exchanged, taken in pawn, obtained or received in contravention of this section, then if such person does not satisfy the court that he came by the property so found lawfully and without any contravention of this Act, he shall be liable on summary conviction to a penalty not exceeding five pounds

(3) A person charged with an offence against this section, and the wife or husband of such person, may, if he or she think fit, be sworn and examined as an ordinary witness in the case

(4) A person found committing an offence against this section may be apprehended without warrant, and taken, together with the property which is the subject of the offence, before a court of summary jurisdiction, and any person to whom any such property as above mentioned is offered to be sold, pawned, or delivered, who has reasonable cause to suppose that the same is offered in contravention of this section, may, and if he has the power

¹ The words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3) Vol. II, 110

shall, apprehend the person offering such property, and forthwith take him together with such property, before a court of summary jurisdiction.

(5) A court of summary jurisdiction, if satisfied on oath that there is reasonable cause to suspect that any person has in his possession, or on his premises, any property on or with respect to which any offence in this section mentioned has been committed, may grant a warrant to search for such property, as in the case of stolen goods, and any property found on such search shall be seized by the officer charged with the execution of such warrant, who shall

Provided that where a person has since the commission of an offence ceased to be subject to military law, he shall not be tried for such offence, except in the case of the offence of mutiny, desertion, or fraudulent enlistment, unless his trial commences within three months after he had ceased to be subject to military law, but this section shall not affect the jurisdiction of a civil court in the case of any offence triable by such court as well as by court-martial

(2) When a person subject to military law is sentenced by court-martial to penal servitude, imprisonment, or detention, this Act shall apply to him during the term of his sentence, notwithstanding that he is discharged or dismissed from His Majesty's service, or has otherwise ceased to be subject to military law, and he may be kept, removed, imprisoned, made to undergo detention, and punished accordingly as if he continued to be subject to military law

Liability to military law in respect of place of commission of offence,

159. Any person subject to military law who within or without His Majesty's dominions commits any offence for which he is liable to be tried by court-martial, may be tried and punished for such offence at any place (either within or without His Majesty's dominions) which is within the jurisdiction of an officer authorised to convene general courts-martial, and in which the offender may for the time being be, in the same manner as if the offence had been committed where the trial by court-martial takes place, and the offender were under the command of the officer convening such court-martial

Punishment not increased by trial elsewhere than offence committed

160 No person shall be subject to any punishment or penalties under the provisions of this Act other than those which could have been inflicted if he had been tried in the place where the offence was committed

Liability to military law in respect of time for trial of offences

161 A person shall not in pursuance of this Act be tried or punished for any offence triable by court-martial committed more than three years before the date at which his trial begins, except in the case of the offence of mutiny, desertion, or fraudulent enlistment, but this section shall not affect the jurisdiction of a civil court in the case of any offence triable by such court, as well as by court-martial, and where a soldier has served continuously in an exemplary manner for not less than three years in any corps of His Majesty's regular forces he shall not be tried for any such offence of desertion (other than desertion on active service), or of fraudulent enlistment, as was committed before the commencement of such three years, but where such offence was fraudulent enlistment all service prior to such enlistment shall be forfeited. Provided that ¹ [the Army Council] may restore all or any part of the service forfeited under this section to any soldier who may perform good or faithful service or may otherwise be deemed by ¹ [the Army Council] to merit such restoration of service

Adjustment of military and civil law

162.—(1) If a person sentenced by a court-martial in pursuance of this Act to punishment for an offence is afterwards tried by a civil court for the same offence, that court shall, in awarding punishment, have regard to the military punishment he may have already undergone.

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw. c. 3), Vol. II *see infra*.

(2) Save as aforesaid, nothing in this Act shall exempt an officer or soldier from being proceeded against by the ordinary courts of law, when accused or convicted of any offence, except such an offence as is declared not to be a crime for the purpose of the provisions of this Act relating to taking a soldier out of His Majesty's service

(3) If an officer—

(a) Neglects or refuses on application to deliver over to the civil magistrate any officer or soldier under his command, who is so accused or convicted as aforesaid, or

(b) Wilfully obstructs or neglects or refuses to assist constables or other ministers of justice in apprehending any such officer or soldier,

such commanding officer shall, on conviction in any of His Majesty's superior courts in the United Kingdom, or in a supreme court in India, be guilty of misdemeanor

(4) A certificate of a conviction of an officer under this section, with the judgment of the court thereon in such form as may be directed by ¹ [the Army Council], shall be transmitted to ¹ [the Army Council]

(5) Any offence committed by any such commanding officer out of the United Kingdom shall for the purposes of the apprehension, trial and punishment of the offender, be deemed to have been committed within the jurisdiction of His Majesty's High Court of Justice in England, and such court shall have jurisdiction as if the place where the offence was committed or the offender may for the time being be were in England

(6) Where a person subject to military law has been acquitted or convicted of an offence by a competent civil court, he shall not be liable to be tried in respect of that offence under this Act

Evidence

163 —(1) The following enactment shall be made with respect to evidence, *Regulations* in proceedings under this Act, whether before a civil court or a court-martial, ^{as to evidence} that is to say:

(a) The attestation paper purporting to be signed by a person on his being attested as a soldier or the declaration purporting to be made by any person upon his re-engagement in any of His Majesty's regular forces or upon any enrolment in any branch of His Majesty's service shall be evidence of such person having given the answers to questions which he is therein represented as having given:

The existence of a person in His Majesty's service may be proved by the production of a copy of his attestation paper purporting to be certified to be a true copy by the officer having the custody of the attestation paper without proof of the handwriting of such officer or of his having the custody of the paper:

¹ These words were substituted by the Army Act, 1906 (c. 26), s. 1, and Vol. II, 421, 422.

- (b) A letter, return, or other document respecting the service of any person in, or the discharge of any person from, any portion of His Majesty's forces, or respecting a person not having served in or belonged to any portion of His Majesty's forces, if purporting to be signed by or on behalf of a Secretary of State, ¹[or the Army Council] or of the Commissioners of the Admiralty, or by the commanding officer of any portion of His Majesty's forces, or of any of His Majesty's ships, to which such person appears to have belonged or alleges that he belongs or had belonged, shall be evidence of the facts stated in such letter, return, or other document
- (c) Copies purporting to be printed by a Government printer of King's regulations, or regulations referred to in section one hundred and forty-two of this Act, of royal warrants, of army circulars or orders, and of rules made by His Majesty, or a Secretary of State ¹[or the Army Council] in pursuance of this Act, shall be evidence of such regulations, royal warrants, army circulars or orders, and rules
- (d) An army list or gazette purporting to be published by authority, and either to be printed by a Government printer or to be issued, if in the United Kingdom, by His Majesty's Stationery Office, and if in India, by some office under the Governor-General of India or the Governor of any presidency in India, shall be evidence of the status and rank of the officers therein mentioned, and of any appointment held by such officers, and of the corps or battalion or arm or branch of the service to which such officers belong
- (e) Any warrants or orders made in pursuance of this Act by any military authority shall be deemed to be evidence of the matters and things therein directed to be stated by or in pursuance of this Act, and any copies of such warrants or orders purporting to be certified to be true copies by the officer therein alleged to be authorised by a Secretary of State or ¹[the Army Council] to certify the same shall be admissible in evidence

* * * * *

- (g) Where a record is made in one of the regimental books in pursuance of any Act or of the King's regulations, or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated
- (h) A copy of any record in one of the said regimental books purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record
- (i) A descriptive return within the meaning of this Act, purporting to be signed by a justice of the peace, shall be evidence of the matters therein stated

¹ These words were inserted by the Army (Annual) Act, 1909 (9 Edw 7 c 3), Vol. II, see *infra*.

(j) ¹ Where the proceedings are the proceedings against a soldier on a charge of being a deserter or absentee without leave and the soldier has surrendered himself into the custody of any portion of His Majesty's forces, a certificate purporting to have been signed by the commanding officer of that portion of His Majesty's forces and stating the fact, date and place of such surrender shall be evidence of the matters so stated

(2) For the purposes of this Act the expression "Government printer" means any printer to His Majesty, and in India any Government press

164 Whenever any person subject to military law has been tried by any civil court, the clerk of such court or his deputy, or other officer having the custody of the records of such court, shall, if required by the commanding officer of such person, or by any other officer, transmit to him a certificate setting forth the offence for which the person was tried together with the judgment of the court thereon if he was convicted, and the acquittal if he was acquitted. and shall be allowed for such certificate a fee of three shillings. Any such certificate shall be sufficient evidence of the conviction and sentence or of the acquittal of the prisoner. as the case may be

165 The original proceedings of a court-martial purporting to be signed by the president thereof and being in the custody of the Judge Advocate General or of the officer having the lawful custody thereof shall be deemed to be of such a public nature as to be admissible in evidence on their mere production from such custody: and any copy purporting to be certified by such Judge Advocate General or his deputy authorised in that behalf, or by the officer having such custody as aforesaid, to be a true copy of such proceedings or of any part thereof shall be admissible in evidence without proof of the signature of such Judge Advocate General deputy, or officer; and the Secretary of State upon production of any such proceedings or certified copy may, by warrant under his hand, authorise the officer appearing thereon to have been convicted and sentenced to any punishment, to be imprisoned and otherwise dealt with in accordance with the sentence in the proceedings or certified copy mentioned.

(2) Any proceedings taken before a court of summary jurisdiction in pursuance of this Act shall be taken in accordance with the Summary Jurisdiction Acts so far as applicable

(3) A court of summary jurisdiction imposing a fine in pursuance of this Act may, if it seem fit, order a portion of such fine not exceeding one half to be paid to the informer

(4) Where the maximum fine or imprisonment which a court of summary jurisdiction in England, when sitting in an occasional courthouse, is authorised by law to impose is less than the minimum fine or imprisonment fixed by this Act, the court may impose the maximum fine or imprisonment which such court is authorised by law to impose, but if required by either party, shall adjourn the case to the next practical petty sessional court

(5) The court of summary jurisdiction in Ireland, when hearing and determining a case arising under this Act, shall be constituted either of two or more justices of the peace sitting at some court or public place at which justices are for the time being accustomed to assemble for the purpose of holding petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the public administration of justice and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace

(6) Subject to the provisions of this Act with regard to the payment to the informer, fines and other sums recovered before a court of summary jurisdiction in pursuance of this Act shall, notwithstanding anything contained in any other Act if recovered in England, be paid into the Exchequer, and if recovered in Ireland, shall be applied in manner directed by the Fines Act (Ireland), 1851, and any Acts amending the same 14 & 15 Vict
c 90

Summary
proceedings
in Scotland

167—(1) In Scotland, offences and fines which may be prosecuted and recovered on summary conviction may be prosecuted and recovered and proceedings under this Act may be taken at the instance of the procurator fiscal of the court, or of any person in that behalf authorised by ¹ [the Army Council] or of any person authorised by this Act to complain

(2) All fines under this Act in default of payment, and all orders made under this Act failing compliance, may be enforced by imprisonment for a term to be specified in the order or conviction, but not exceeding three months, and the conviction and warrant may be in the form number three of Schedule K of the Summary Procedure Act, 1864 27 & 28 Vict
c 53

(3) All fines and other sums recovered under this Act before a court of summary jurisdiction, subject to any payment made to the informer, shall be paid to the King's and Lord Treasurer's Remembrancer, on behalf of His Majesty

(4) It shall be no objection to the competency of a person to give evidence as a witness in any prosecution for offences under this Act, that such prosecution is brought at the instance of such person.

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c. 3) Vol. II, see *infra*

(5) Every person convicted of an offence under this Act shall be liable in the reasonable costs and charges of such conviction

(6) All jurisdictions, powers, and authorities necessary for the purposes of this Act are conferred on the sheriffs and their substitutes and on justices of the peace

(7) The court may make, and may also from time to time alter or vary, summary orders under this Act on petition by the procurator fiscal of the court, or such person as aforesaid, presented in common form

168 All offences under this Act which may be prosecuted, and all fines under this Act which may be recovered on summary conviction, and all proceedings under this Act which may be taken before a court of summary jurisdiction, may be prosecuted and recovered and taken in the Isle of Man, Channel Islands, India, and any colony in such courts and in such manner as may be from time to time provided therein by law or if no express provision is made, then in and before the courts and in the manner in which the like offences and fines may be prosecuted and recovered and proceedings taken therein by law or as near thereto as circumstances admit

Summary proceedings in Isle of Man, Channel Islands, India and the colonies

169 It shall be lawful for the Governor-General of India, and for the legislature of any colony, to provide by law for reducing any fine directed by this Act to be recovered on summary conviction to such amount as may appear to the Governor-General or legislature to be better adapted to the pecuniary means of the inhabitants, and also to declare the amount of the local currency which is to be deemed for the purposes of this Act to be equivalent to any sum of British currency mentioned in this Act

Power of Governor-General of India and legislature of colony as to fines

170—(1) Any action, prosecution, or proceeding against any person for any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, shall not lie or be instituted unless it is commenced within six months next after the act, neglect, or default complained of, or, in case of a continuance of injury or damage, within six months next after the ceasing thereof

Protection of persons acting under Acts

(2) In any such action tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after such tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after such tender or payment, and the defendants shall be entitled to costs, to be taxed as between solicitor and client, as from the time of such tender or payment, but this provision shall not affect costs on any injunction in the action

(3) Every such action, and also every action against a member or minister of a court-martial in respect of a sentence of such court, or of anything done by virtue or in pursuance of such sentence, shall be brought in one of His Majesty's superior courts in the United Kingdom (which courts shall have jurisdiction to try the same wherever the matter complained of occurred) or in a supreme court in India, or in any Colonial court of superior jurisdiction provided

the matter complained of occurred within the jurisdiction of such Indian or Colonial court respectively, and in no other court whatsoever

Miscellaneous

Exercise of
powers
vested
in holder of
military
office

171 Any power or jurisdiction given to, and any act or thing to be done by, to, or before any person holding any military office may be exercised by, or done by, to, or before any other person for the time being authorised in that behalf according to the custom of the service, or according to rules made under section seventy of this Act

Provisions as
to warrants
and orders of
military
authorities

172 —(1) Where any order is authorised by this Act to be made by ¹[the Army Council] or by the Commander-in-Chief or Adjutant General of the forces in India, or by any general or other officer commanding, such order may be signified by an order, instruction, or letter under the hand of any officer authorised to issue orders on behalf of ¹ [the Army Council] or such Commander-in-Chief, Adjutant-General, or general or other officer commanding, and an order, instruction, or letter purporting to be signed by any officer appearing therein to be so authorised shall be evidence of his being so authorised

(2) The foregoing enactment of this section shall extend to any order or direction issued in pursuance of this Act in relation to a military convict or military prisoner or soldier undergoing detention, and any such order or from directions shall not be held void by reason of the death or removal of the officer signing or ordering the issue of the same, or by reason of any defect in such order or directions, if it be alleged in such order or directions that the convict or prisoner or soldier has been convicted, and there is a good and valid conviction to sustain the order or directions

(3) An order in any case if issued in the prescribed form shall be valid but an order deviating from the prescribed form if otherwise valid shall not be rendered invalid by reason only of such deviation

(4) Where any military convict or military prisoner or soldier undergoing detention is for the time being in custody, whether military or civil, in any place or manner in which he might legally be kept in pursuance of this Act, the custody of such convict or prisoner or soldier shall not be deemed to be illegal only by reason of any informality or error in or as respects the order warrant, or other document, or the authority by or in pursuance whereof such convict or prisoner or soldier was brought into or is detained in such custody, and any such order warrant, or document may be amended accordingly

(5) Where a military convict, or a military prisoner, or a soldier undergoing detention, or a person who is subject to military law and charged with an offence

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol II see *infra*

is a prisoner or soldier in military custody, and for the purpose of conveyance by sea is delivered on board a ship to the person in command of the ship or to any other person on board the ship acting under the authority of the commander, the order of the military authority which authorises the prisoner or soldier to be conveyed by sea shall be a sufficient authority to such person, and to the person for the time being in command of the ship, to keep the said prisoner or soldier in custody and convey him in accordance with the order, and the prisoner or soldier while so kept shall be deemed to be kept in military custody

173 If any soldier on furlough is detained by sickness or other casualty rendering necessary any extension of such furlough in any place, and there is not any officer in the performance of military duty of the rank of captain, or of higher rank, within convenient distance of the place, any justice of the peace who is satisfied of such necessity may grant an extension of furlough for a period not exceeding one month; and the said justice shall by letter immediately certify such extension and the cause thereof to the commanding officer of such soldier, if known, and if not, then to [the Army Council]. The soldier may be recalled to duty by his commanding officer or other competent military authority, and the furlough shall not be deemed to be extended after such recall, but save as aforesaid, the soldier shall not, in respect of the period of such extension of furlough, be liable to be treated as a deserter, or as

PART V.

APPLICATION OF MILITARY LAW, SAVING PROVISIONS AND DEFINITIONS

Persons subject to Military Law

Persons
subject to
military law
as officers

175 The persons in this section mentioned are persons subject to military law as officers, and this Act shall apply accordingly to all the persons so specified, that is to say,

- (1) Officers of the regular forces on the active list, within the meaning of any Royal Warrant for regulating the pay and promotion of the regular forces, and officers not on such active list who are employed on military service under the orders of an officer of the regular forces, who is subject to military law
- (2) Officers who are members of the permanent staffs of any of the auxiliary forces, and are not otherwise subject to military law
- (3) Officers of the militia other than members of the permanent staff
- (3A) Officers of the territorial force other than members of the permanent staff
- (4) All such persons not otherwise subject to military law as may be serving in the position of officers of any troops or portion of troops raised by order of His Majesty beyond the limits of the United Kingdom and of India, and serving under the command of an officer of the regular forces

Provided that nothing in this Act shall affect the application to such persons of any Act passed by the legislature of a colony

- (5) Officers of the yeomanry, and officers of the volunteers, whenever in actual command of men who are in pursuance of this Act subject to military law, or when their corps is on actual military service
- (6) Any officer of the yeomanry or volunteers, whether in receipt of pay or otherwise, during and in respect of the time when with his own consent he is attached to or doing duty with any body of troops for the time being subject to military law, whether of the regular or auxiliary forces or with his own consent, is ordered on duty by the military authorities
- (7) Every person not otherwise subject to military law who, under the general or special orders of ¹[the Army Council] or of the Governor-General of India, accompanies in an official capacity equivalent to that of officer of any of His Majesty's troops on active service in any place * * * ²subject to this qualification, that where such person is a native of India he shall be subject to Indian military law as an officer

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c. 3), Vol. II, see *infra*

² The words "beyond the seas" were repealed by the Army (Annual) Act, 1912 (2 Geo 5, c. 5), s. 7, Vol. II, see *infra*.

- (8) Any person, not otherwise subject to military law, accompanying a force on active service, who shall hold from the commanding officer of such force, a pass, revocable at the pleasure of such commanding officer, entitling such person to be treated on the footing of an officer
- (9) The persons holding commissions as officers in the Indian Army reserve when such officers are called out in any military capacity
- (10) Any reserve officer within the meaning of the Royal Warrant regulating the composition of the reserve of officers, if an officer holding a commission as officer in the special reserve at all times, and if not holding such a commission when he is ordered on any duty or service for which, as such reserve officer, he is liable
- ¹[(11) All officers belonging to a force raised in India or a colony, when attached to or doing duty with any portion of the regular, reserve, or auxiliary forces in the United Kingdom]
- ²[(12) All officers of a force raised in India or a colony to which this Act is in whole or in part, applied by the law of India or the colony, at such times and subject to such adaptations, modifications, and exceptions, as may be specified in such law]

176. The persons in this section mentioned are persons subject to military law as soldiers, and this Act shall apply accordingly to all the persons so specified, that is to say, Persons subject to military law as soldiers

- (1) All soldiers of the regular forces
- (2) All non-commissioned officers and men of the permanent staff of any of the auxiliary forces who are not otherwise subject to military law
- (3) All non-commissioned officers and men serving in a force raised by order of His Majesty beyond the limits of the United Kingdom and of India, and serving under the command of an officer of the regular forces

Provided that nothing in this Act shall affect the application to such non-commissioned officers and men of any Act passed by the legislature of a colony

- (4) All pensioners not otherwise subject to military law who are employed in military service under the orders of an officer of the regular forces
- (5) All non-commissioned officers and men belonging to the army reserve force or the militia reserve force—
 - (a) When called out for training and exercise, and
 - (b) When called out for duty in aid of the civil power, and
 - (c) When called out on permanent service under His Majesty's proclamation, and

¹ Paragraph (11) was added by the Army (Annual) Act, 1909 (9 Edw 7, c. 3), s. 8 (1), Vol II, *see infra*

² Paragraph (12) was added by the Army (Annual) Act, 1912 (2 Geo 5, c. 5), s. 8(1)a, Vol II, *see infra*

- (d) When employed in military service under the orders of an officer of the regular forces
- (6) All non-commissioned officers and men in the militia of the United Kingdom—
 - (a) During their preliminary training, and
 - (b) When they or the body of militia to which they belong are being trained or exercised either alone or with any portion of the regular forces or otherwise, and
 - (c) When attached to or otherwise acting as part of or with any regular forces, and
 - (d) When embodied
- (6A) All non-commissioned officers and men belonging to the territorial force—
 - (a) When they are being trained or exercised either alone or with any portion of the regular forces or otherwise, and
 - (b) When attached to or otherwise acting as part of or with any regular forces, and
 - (c) When embodied, and
 - (d) When called out for actual military service, for purposes of defence in pursuance of any agreement
- (7) All non-commissioned officers and men belonging to the yeomanry force of the United Kingdom—
 - (a) When they or their corps are being trained or exercised, either alone or with any portion of regular forces, or with any portion of the militia when subject to military law, and
 - (b) When they are attached to or otherwise acting as part of or with any regular forces, and
 - (c) When their corps is on actual military service, and
 - (d) When serving in aid of the civil power
- (8) All non-commissioned officers and men belonging to the volunteer forces of the United Kingdom—
 - (a) When they are being trained or exercised with any portion of the regular forces or with any portion of the militia when subject to military law, and
 - (b) When they are attached to or otherwise acting as part of or with any regular forces, and
 - (c) When their corps is on actual military service

Provided that it shall be the duty of the commanding officer of any part of the volunteer force not in actual military service when he knows that any non-commissioned officers or men belonging to that force are about to enter upon any service which will render them subject to military law, to provide for their being informed that they will become so subject, and for their having an opportunity of abstaining from entering on that service

¹ [(8A) All non-commissioned officers and men belonging to a force raised in India or a colony when attached to or otherwise acting as part of or with any portion of the regular, reserve, or auxiliary forces in the United Kingdom]

(9) All persons who are employed by or are in the service of any of His Majesty's troops when employed on active service * * ², and who are not under the former provisions of this Act subject to military law.

(10) All persons not otherwise subject to military law who are followers of or accompany His Majesty's troops, or any portion thereof, when employed on active service * * ², subject to this qualification that, where any such persons are employed by or are followers of, or accompany any portion of, His Majesty's forces, consisting partly of His Majesty's Indian forces subject to Indian military law, and such persons are natives of India, they shall be subject to Indian military law

³ [(11) All non-commissioned officers and men belonging to a force raised in India or a colony to which this Act is, in whole or in part, applied by the law of India or the colony, at such times and subject to such adaptations, modifications, and exceptions as may be specified in such law]

177. Where any force of volunteers, or of militia, or any other force, is raised in India or in a colony, any law of India or the colony may extend to the officers, non-commissioned officers and men belonging to such force, whether within or without the limits of India or the colony, ⁴ [and any such law may apply, in relation to such force and to any officers, non-commissioned officers, and men thereof, all or any of the provisions of this Act, subject to such adaptations, modifications, and exceptions as may be specified in such law, and where so applied this Act shall have effect in relation to such force subject to such adaptations, modifications, and exceptions as aforesaid] and where any such force is serving with part of His Majesty's regular forces, then so far as the law of India or the colony has not provided for the government and discipline of such force, this Act and any other Act for the time being amending the same shall, subject to such exceptions and modifications as may be specified in the general orders of the general officer commanding His Majesty's forces with which such force is serving, apply to the officers, non-commissioned officers, and men of such force, in like manner

Persons' belonging to colonial forces, and subject to military law as officers or soldiers

¹ Paragraph (8A) was added by the Army (Annual) Act, 1909 (9 Edw 7, c 3), s 8(2), Vol II, *see infra*

² The words "beyond the seas" were repealed by the Army (Annual) Act, 1912 (2 Geo 5 c 5), s 7, Vol II, *see infra*

³ Paragraph (11) was added by the Army (Annual) Act, 1912 (2 Geo 5, c 5), s 8(1)b, Vol II, *see infra*.

⁴ These words were substituted by the Army (Annual) Act 1912 (2 Geo 5, c 5), s 8(1)c, Vol II, *see infra*.

as they apply to the officers, non-commissioned officers, and men ¹[of the regular forces]

² [This section shall not apply to any officer belonging to any such force when attached to or doing duty with, or to any non-commissioned officer or man belonging to any such force when attached to or otherwise acting as part of or with, any portion of the regular, reserve, or auxiliary forces in the United Kingdom]

Mutual relations of regular forces and auxiliary forces

178 When officers, non-commissioned officers, and men belonging to the auxiliary forces, or any pensioners, are subject to military law in pursuance of this Act, ³[and when non-commissioned officers and men belonging to the reserve forces are subject to military law in pursuance of this Act, otherwise than when called out on permanent service,] such officers, non-commissioned officers, men and pensioners shall be subject to this Act in all respects as if they were part of the regular forces, and the provisions of this Act shall be construed as if such officers, non-commissioned officers, men and pensioners were included in the expression "regular forces" Provided that nothing in this section contained shall affect the conditions of service of any officer, non-commissioned officer, or man belonging to such auxiliary ³[or reserve] forces, or of any pensioner

Modification of Act with respect to Royal Marines.

179 In the application of this Act to His Majesty's Royal Marines the following modifications shall be made —

(1) Nothing in this Act shall prejudice any power of the Admiralty to make Articles of War for the Royal Marines or otherwise prejudice the authority of the Admiralty over the Royal Marines or confer on any officers who are not officers of the Royal Marines any greater authority to command the Royal Marines than they have heretofore used, and a general court-martial for the trial of an officer or man in the Royal Marines shall not be convened except by an officer authorised by a warrant from the Admiralty in pursuance of this section, and except that, where such officer or man while subject to this Act is serving beyond the seas with any other portion of the regular forces, and in the opinion of the general or other officer commanding those forces (such opinion to be stated in the order convening the court and to be conclusive) there is not present, any officer authorised by warrant from the Admiralty to convene a general court-martial, a general court-martial convened by such general or other officer, if authorised to convene general courts-martial, may try such officer or man

(2) A district court-martial for the trial of a man in the Royal Marines may be convened by any officer having authority to convene a

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), s 9 (2), Vol II, *see infra*

² This paragraph was added by the Army (Annual) Act, 1909 (9 Edw 7, c 3), s 8(3), Vol II, *see infra*

³ These words were inserted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), s 10 (1), Vol. II, *see infra*.

district court-martial for the trial of any soldier of any other portion of the regular forces

- (3) Any power in relation to the convening of courts-martial, or of authorising an officer to convene courts-martial or to delegate the powers of convening courts-martial, or of confirming the findings and sentences of courts-martial, or otherwise in relation to courts-martial, which under this Act His Majesty may exercise by any warrant or warrants, may be exercised in His Majesty's name by a warrant or warrants from the Admiralty, and any such warrant may be addressed to any officer to whom any warrant of His Majesty can be addressed.
- (4) Any power vested by this Act in His Majesty in relation to the confirmation of the findings and sentences of courts-martial, or otherwise in relation to courts-martial, may be exercised by the Admiralty
- (5) Without prejudice to any power of confirmation, the findings and sentences of any general or district court-martial on an officer or man of the Royal Marines may be confirmed by an officer authorised under this section to convene the same, or by any officer otherwise authorised under this Act to confirm the findings and sentences of general or district courts-martial, as the case may be, for the trial of any soldier of any other portion of the regular forces
- (6) Any power vested in His Majesty by this Act in relation to the making of rules, or to any order with respect to pay, or to any complaint in respect of an officer who thinks himself wronged, shall be vested in and exercised by the Admiralty, and the provisions of this Act respectively relating to such rules, orders, and complaints shall be construed, so far as respects the Royal Marines, as if "the Admiralty" were substituted for His Majesty, as well as for the Secretary of State ¹ [and the Army Council]
- (7) Anything required or authorised by this Act to be done by, to, or before a Secretary of State, ² [the Army Council] or Judge Advocate General, may, as regards the Royal Marines, be done by, to, or before the Admiralty, and the provisions of this Act shall be construed, so far as respects the Royal Marines, as if "the Admiralty" were substituted for "Secretary of State," " ² [Army Council]," and "Judge Advocate General," wherever those words occur
- (8) Anything required or authorised by this Act to be done by, to, or before the Commander-in-Chief of the forces in India, or the general or other officer commanding the forces in any colony or elsewhere,

¹ These words were inserted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol II, *see infra*

² These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol II, *see infra*.

may as regards the Royal Marines be done by, to, or before such officer as the Admiralty may by warrant from time to time appoint in that behalf, and, if no such appointment is made, by such Commander-in-Chief or general or other officer

- (9) Anything authorised by this Act to be done by Royal Warrant may be done, as regards the Royal Marines, by Warrant of the Admiralty, and the provisions of this Act with respect to Royal Warrants printed by the Government printer shall apply to any warrants of the Admiralty under this Act
- (10) Anything authorised to be done by the deputy of the Judge Advocate General may be done by any one of the Commissioners for executing the office of Lord High Admiral, or by a secretary of the Admiralty
- (11) In the provisions of this Act with respect to evidence, the expression " King's Regulations " shall be deemed to include Admiralty Regulations
- (12) Nothing in the provisions of this Act relating to the term of enlistment, to the conditions of service, to appointment or transfer, to transfer to the reserve, to the re-engagement or prolongation of service, or to forfeiture of service of a soldier of the regular forces, or to the rules for reckoning service for discharge or transfer to the reserve, shall apply to the Royal Marines
 Save that if regulations made by ¹[the Army Council] and the Admiralty provide for the transfer of men of the Royal Marines to any other part of His Majesty's regular force, a man of the Royal Marines may, with his consent, be so transferred in accordance with the said regulations, and subject to those regulations shall become a soldier of the said part of His Majesty's regular forces in like manner, so nearly as circumstances admit, as if he had been enlisted in pursuance of this Act
 And save that if any regulations so made provide for the transfer to the Royal Marines of men belonging to any other part of His Majesty's regular forces, a man belonging to such part may, with his consent, be so transferred in accordance with the said regulations, and subject to those regulations, shall become a man of the Royal Marines in like manner, so nearly as circumstances admit, as if he had been enlisted in pursuance of the Acts relating to the Royal Marines
- (13) A marine on his re-engagement shall make a declaration, either before a justice of the peace or person having under this Act the same authority as a justice of the peace, for the purposes of enlistment, or before a naval officer commanding any ship commissioned by His Majesty, or before the commanding officer of any battalion

¹ These words were substituted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), Vol II, sec 17/2.

or detachment of Royal Marines, in the form from time to time directed by the Admiralty

- (14) A man in the Royal Marines shall, for absence without leave, on conviction of that offence by court-martial, and for fraudulent enlistment, forfeit his service in like manner as he forfeits it for desertion under the Acts relating to the Royal Marines
- (15) Officers and men of the Royal Marines, during the time that they are borne on the books of any ship commissioned by His Majesty (otherwise than for service on shore), shall be subject to the Naval Discipline Act and to the laws for the government of officers and seamen in the Royal Navy, and to the rules for the discipline of the Royal Navy for the time being, and shall be tried and punished for any offence in the same manner as officers and seamen in the Royal Navy

29 & 30 Vict ,
c 109, as
amended by
47 & 48 Vict ,
c. 39

Provided that—

- (a) The last mentioned provision shall not prevent the application of this Act to any person dealing with or having any relations with any such officer or man of the Royal Marines or to any such officer or man if found on shore as a deserter or absentee without leave, and
- (b) If any such officers or men of the Royal Marines are employed on land, the senior naval officer present may, if it seems to him expedient, order that they shall, during such employment, be subject to military law under this Act, and while such order is in force they shall be subject to military law under this Act accordingly
- (16) If any officer or man of the Royal Marines who is borne on the books of any ship commissioned by His Majesty commits an offence for which he is not amenable to a naval court-martial, but for which he can be punished under this Act, he may be tried and punished for such offence under this Act
- (17) The Admiralty may direct that an officer or man of the Royal Marines may be tried under this Act for any offence committed by him on shore, whether he be or be not amenable to a naval court-martial for such offence, or be or be not borne on the books of any ship commissioned by His Majesty
- (18) Where any officer or man of the Royal Marines is on board any ship commissioned by His Majesty, but is borne on the books thereof for service on shore, he shall be subject to the Naval Discipline Act to such extent and under such regulations as His Majesty by Order in Council from time to time directs, and, so far as he does not so direct, as is for the time being directed by Order in Council with respect to the other regular forces
- (19) Any naval prison within the meaning of the Naval Discipline Act shall be deemed to be included in the definition of a public prison

29 & 30 Vict ,
c 109, as
amended by
47 & 48 Vict ,
c 39

for the purposes of this Act, and the Admiralty shall not have any authority to establish any military prison under this Act

(20) In this section the expression "Admiralty" means the Lord High Admiral or the Commissioners for executing the office of the Lord High Admiral for the time being, or any two of them

(21) The expression "man of the Royal Marines" includes a non-commissioned officer of the Royal Marines, and also a Marine raised or enrolled under the Naval Reserve Act, 1900, or the Naval Forces Act, 1903, when called into actual service and when being trained or exercised

Modification
of Act with
respect to His
Majesty's
Indian
forces

180.—(1) In the application of this Act to His Majesty's forces when serving in India the following modification shall be made —

A court-martial may take the same proceedings for the punishment of a person not subject to military law, who in any part of India, commits any offence as a witness before a court-martial, or is guilty of a contempt of a court-martial, as might be taken by any civil court in that part of India in the case of the like offence in that court, and any court in which such proceedings are taken shall have jurisdiction to punish such person accordingly

(2) In the application of this Act to His Majesty's Indian forces the following modifications shall be made —

(a) Nothing in this Act shall prejudice or affect the Indian military law respecting officers or soldiers or followers in His Majesty's Indian forces, being natives of India, and on the trial of all offences committed by any such native officer, soldier, or follower, reference shall be had to the Indian military law for such native officers, soldiers, or followers, and to the established usages of the service, but courts-martial for such trials may be convened in pursuance of this Act

(b) For the purposes of this Act the expression "Indian military law" means the Articles of War or other matters made, enacted, or in force, or which may hereafter be made, enacted, or in force under the authority of the Government of India, and such articles or other matters shall extend to such native officers, soldiers, and followers wherever they are serving

(c) The Governor General in India may suspend the proceedings of any court-martial held in India on an officer or soldier belonging to His Majesty's Indian forces

(d) An officer belonging to His Majesty's Indian forces who thinks himself wronged by his commanding officer, and on due application made to him does not receive the redress to which he may consider himself entitled, may complain to the officer appointed in that behalf by the Commander-in-Chief of the forces in India with the approval of the Governor General, and that officer shall cause his complaint to be inquired into, and thereupon report to the

Governor General in order to receive the further directions of the Governor General

[*Sub-sec (e) rep 7 Edw 7, c 2*]

- (f) The Governor General of India may reduce any warrant officer not holding an honorary commission, to a lower grade of warrant rank, or may remand any such warrant officer to regimental duty in the regimental rank held by him immediately previous to his appointment to be a warrant officer
- (g) The provisions of this Act relating to warrant officers not holding honorary commissions shall apply to hospital apprentices in India although not appointed by warrant
- (h) Part Two of this Act shall not apply to His Majesty's Indian forces, but persons may be enlisted and attested in India for medical service or for other special service in His Majesty's Indian forces, for such periods, by such persons, and in such manner as may be from time to time authorised by the Governor General of India

(3) In this Act, so far as regards India, any reference to an indictable offence or an offence punishable on indictment, shall be deemed to refer to an offence punishable with rigorous imprisonment

181.—(1) The provisions of this Act with respect to enlistment shall not apply to a person enlisted or enrolled in any of His Majesty's auxiliary forces except so far as such person enlists or enrolls himself, or attempts to enlist or enrol himself in the regular forces or in a force raised in India or a colony and except so far as the said provisions may be applied by any other Act

Modification of Act with respect to auxiliary forces

(2) The provisions of this Act shall apply to the permanent staff of the auxiliary forces who are not otherwise part of the regular forces, in like manner as if such permanent staff were part of the regular forces

(3) The provisions of this Act with respect to billeting and impressment of carriages shall apply to His Majesty's auxiliary forces when subject to military law, in like manner as if they were part of the regular forces, subject to the following modification

(4) An order issued and signed as a route or an order signed by the officer commanding the unit of the territorial force, the battalion of militia or the battalion or corps of yeomanry, or volunteers, shall be substituted for a route,—

- (a) In the case of any man of the territorial force or militia man attending for his preliminary training, and
- (b) In the case of any officer, non-commissioned officer, or man of the territorial force or militia, assembled for training and exercise at the place in the United Kingdom appointed by His Majesty in that behalf, and
- (c) In the case of any officer, non-commissioned officer, or man of the territorial force or militia, embodied under an order of His Majesty, who has joined his corps at the place appointed for his assembling, and

(d) In the case of any officer, non-commissioned officer, or man, of the yeomanry, or volunteers attending at the place at which his corps is required to assemble,

and in order to billet such officer, non-commissioned officer, or man, purporting to be signed in manner required by this Act in the case of a route or by the officer commanding an unit of the territorial force, a battalion of militia, or a battalion or corps of yeomanry, or volunteers, as the case may be, shall be evidence, until the contrary is proved, of the order being issued in accordance with this Act, and when delivered to an officer, non-commissioned officer, or man, of the territorial force, militia, yeomanry, or volunteers, shall be a sufficient authority to such officer, non-commissioned officer, or man to demand billets, and when produced by an officer, non-commissioned officer, or man to a constable shall be conclusive evidence to such constable of the authority of the officer, non-commissioned officer, or man, producing the same to demand billets in accordance with the order

(5) The competence or liability of an officer of the auxiliary forces to be nominated or elected to, or to hold, the office of sheriff, mayor, or alderman, or an office in a municipal corporation, shall not be affected by reason of the battalion or corps to which he belongs being assembled for annual training at the time of such nomination or election, or during the time of his tenure of office

(6) When a member of the volunteers or the territorial force, being a non-commissioned officer or private, is subject to military law, a dismissal may be awarded to him as a punishment, in the event of his committing any offence triable by court-martial or punishable by a commanding officer under this Act

182. The provisions of this Act shall apply to a warrant officer not holding an honorary commission in like manner as if he were a non-commissioned officer, subject nevertheless (in addition to the modifications for a non-commissioned officer) to the following modifications —

(1) He shall not be punished by his commanding officer nor tried by regimental court-martial, nor sentenced by a district court-martial to any punishment not in this section mentioned, and

(2) He may be sentenced—

(a) by a district court-martial to such forfeitures, fines, and stoppages as are allowed by this Act, and, either in addition to or in substitution for any such punishment, to be dismissed from the service, or to be reduced to the bottom or any other place in the list of the rank which he holds, or to be reduced to an inferior class of warrant officer (if any), or to be reduced to a lower grade, or if he was originally enlisted as a soldier, but not otherwise, to the ranks, or

(b) by any court-martial having power to try him, other than a district court-martial, to any punishment which under this section a district court-martial has power to award, either in addition to or in substitution for any other punishment,

(3) A warrant officer reduced to the ranks or remanded to regimental duty in the rank of private shall not be required to serve in the ranks as a soldier,

(4) The president of a court-martial for the trial of a warrant officer shall in no case be under the rank of captain

183. In the application of this Act to a non-commissioned officer the following modifications shall apply — *Special provisions as to non-commissioned officer.*

(1) The obligation on a commanding officer to deal summarily with a soldier charged with drunkenness shall not apply to a non-commissioned officer charged with drunkenness.

(2) [The Army Council] and in India the Commander-in-Chief of the forces in India, or such officer as the Commander-in-Chief of the forces in India with the approval of the Governor General of India in Council may appoint, and on active service the officer commanding-in-chief in the field and any general officer he may appoint may reduce any non-commissioned officer to any lower grade or to the ranks

(3) A non-commissioned officer may by the sentence of a court-martial, be ordered to forfeit seniority of rank or be reduced to any lower grade or to the ranks, either in addition to or without any other punishment, in respect of an offence.

(4) A non-commissioned officer sentenced by court-martial to penal servitude, field punishment imprisonment or detention shall be

Special provisions as to application of Act to persons not belonging to His Majesty's forces

184. In the application of this Act to persons who do not belong to His Majesty's forces, the following modifications shall be made —

- (1) Where an offence has been committed by any person subject to military law who does not belong to His Majesty's forces, such persons may be tried by any description of court-martial other than a regimental court-martial, convened by an officer authorised to convene such description of court-martial, within the limits of whose command the offender may for the time being be, and may be tried, and on conviction dealt with and punished accordingly
- (2) Any person subject to military law who does not belong to His Majesty's forces shall, for the purposes of this Act relating to offences, be deemed to be under the command of the commanding officer of the corps or portion of a corps (if any) to which he is attached, and if he is not attached to any corps or a portion of a corps under the command of any officer who may for the time being be named as his commanding officer by the general or other officer commanding the force with which such person may for the time being be, or of any other prescribed officer, or, even if no such officer is named or prescribed, under the command of the said general or other officer commanding, but such person shall not be liable to be punished by a commanding officer or by a regimental court-martial

Provided that a general or other officer commanding shall not place a person under the command of an officer of rank inferior to the official rank of such person if there is present, at the place where such person is, any officer of higher rank under whose command he can be placed

Saving Provisions

Special provisions as to prisoners and prisons in Ireland

185. All jurisdiction and powers of a Secretary of State under this Act with respect to military convicts or military prisoners, or to prisons other than military prisons, shall in Ireland be vested in the General Prisons Board, and shall be exercised by that Board in the manner and subject to the regulations in and under which the jurisdiction and powers of that Board are exercised under the General Prisons (Ireland) Act, 1877, and the provisions of this Act with respect to the orders and regulations of the Secretary of State shall apply to the orders and regulations of such Board

Saving of Naval Discipline Act as to forces when on board His Majesty's ships

186. Nothing in this Act shall affect the application of the Naval Discipline Act or any Order in Council made thereunder, to any of His Majesty's forces when embarked on board any ship commissioned by His Majesty, and the auxiliary forces shall be deemed to be part of His Majesty's forces within the meaning of that Act

Definitions.

187. This Act shall apply to the Channel Islands and the Isle of Man in like manner as if they were part of the United Kingdom, subject to the following modifications —

Application
of Act to
Channel
Islands and
Isle of Man

- (1) The provisions of this Act relating to billeting and the impressment of carriages shall not extend to the Channel Islands and the Isle of Man
- (2) For the purposes of the provisions of this Act relating to the execution of sentences of penal servitude, imprisonment or detention, and to prisons and detention barracks, the Channel Islands and the Isle of Man shall be deemed to be colonies, and any sentence of penal servitude, imprisonment or detention passed in any of those islands shall be deemed to have been passed in a colony
- (3) For the purposes of the provisions of this Act relating to the auxiliary forces the Channel Islands shall be deemed to be colonies
- (4) For the purposes of the provisions of this Act relating to the militia the Isle of Man shall be deemed to be a colony

188 Where a person subject to military law is on board a ship, this Act shall apply until he arrives at the port of disembarkation in like manner as if he and the officers in command of him were on land at the place at which he embarked on board the said ship, subject to this proviso, that, if he is tried and sentenced while so on board ship, any finding and sentence, so far as not confirmed and executed on board ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation

Application
of Act to
ships

189.—(1) In this Act, if not inconsistent with the context, the expression “on active service” as applied to a person subject to military law means whenever he is attached to or forms part of a force which is engaged in operations against the enemy or is engaged in military operations in a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country

Interpreta-
tion of term
“on active
service”

(2) Where the governor of a colony in which any of His Majesty’s forces are serving, or if the forces are serving out of His Majesty’s dominions, the general officer commanding such forces declares at any time or times that, by reason of the imminence of active service or of the recent existence of active service, it is necessary for the public service that the forces in the colony or under his command, as the case may be, should be temporarily subject to this Act, as if they were on active service, then, on the publication in general orders of any such declaration, the forces to which the declaration applies shall be deemed to be on active service for the period mentioned in the declaration, so that the period mentioned in any one declaration do not exceed three months from the date thereof

(3) If at any time during the said period the governor or general officer for the time being is of opinion that the necessity continues he may from time

to time renew such declaration for another period not exceeding three months, and such renewal shall be published and have effect as the original declaration and if he is of opinion that the said necessity has ceased, he shall state such opinion, and on the publication in general orders of such statement, the forces to which the declaration applies shall cease to be deemed to be on active service

(4) Every such declaration, renewal of declaration, and statement by the governor of a colony shall be made by proclamation published in the official gazette of the colony, and it shall be the duty of every governor or general officer making a declaration or renewal of a declaration under this section, if he has the means of direct telegraphic communication with a Secretary of State, to obtain the previous consent of the Secretary of State to such declaration or renewal, and in any other case to report the same with the utmost practicable speed to the Secretary of State

(5) The Secretary of State may, if he thinks fit, annul a declaration or renewal purporting to be made in pursuance of this section, without prejudice to anything done by virtue thereof before the date at which the annulment takes effect, and until that date any such declaration or renewal shall be deemed to have been duly made in accordance with this section, and shall have full effect

Interpreta-
tion of terms

190 In this Act, if not inconsistent with the context, the following expressions have the meanings hereinafter respectively assigned to them, that is to say,

- (1) The expression " Secretary of State " means one of His Majesty's Principal Secretaries of State
- (2) The expression " Lord Lieutenant of Ireland " includes the lords justices or other chief governor or governors of Ireland
- (3) The expression " Commander-in-Chief " means the field-marshal or other officer commanding-in-chief His Majesty's forces for the time being
- (4) The expression " officer " means an officer commissioned or in pay as an officer in His Majesty's forces, or any arm, branch, or part thereof, it also includes a person who, by virtue of his commission, is appointed to any department, or corps of His Majesty's forces, or of any arm, branch, or part thereof, it also includes a person whether retired or not who, by virtue of his commission or otherwise, is legally entitled to the style and rank of an officer of His Majesty's said forces, or of any arm, branch, or part thereof

Warrant and other officers holding honorary commissions are officers within the meaning of this Act, subject to the exceptions in this Act mentioned

- (5) The expression " non-commissioned officer " includes an acting non-commissioned officer, and includes an army schoolmaster when not

a warrant officer, but save as is in this Act mentioned does not include a warrant officer not holding an honorary commission

- (6) The expression "soldier" does not include an officer as defined by this Act, but, with the modifications in this Act contained in relation to warrant officers and non-commissioned officers does include a warrant officer not having an honorary commission and a non-commissioned officer, and every person subject to military law during the time that he is so subject
- (7) The expression "superior officer," when used in relation to a soldier, includes a warrant officer not holding an honorary commission, and also includes a non-commissioned officer as above defined
- (8) The expressions "regular forces" and "His Majesty's regular forces" mean officers and soldiers who by their commission, terms of enlistment, or otherwise, are liable to render continuously for a term military service to His Majesty in any part of the world,¹ [including soldiers of the reserve forces when called out on permanent service and,] including, subject to the modifications in this Act mentioned, the Royal Marines and His Majesty's Indian forces, and the Royal Malta Artillery * * * *²
- (9) The expression "reserve forces" means the army reserve force and the militia reserve force
* * * * *
- (12) The expression "auxiliary forces" means the territorial force, the militia, the yeomanry, and the volunteers
- (13) The expression "militia" includes the general and the local militia
- (14) The expression "volunteers and volunteer forces" includes the Honourable Artillery Company of London
- (15) The expression "corps"—

(A) In the case of His Majesty's regular forces—

- (i) Means any such military body, whether known as a territorial regiment or by any different name, as may be from time to time declared by Royal Warrant to be a corps for the purpose of this Act, and is a body formed by His Majesty, and either consisting of associated battalions of the regular and auxiliary forces, or consisting wholly of a battalion or battalions of the regular forces, and in either case with or without the whole or any part of the permanent staff of any of the auxiliary forces not included in such military body, and
- (ii) Means the Royal Marine forces, in this Act referred to as the Royal Marines, and also

¹ These words were inserted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), s 10 (2), Vol II, *see infra*

² Repealed by the Army (Annual) Act, 1909 (9 Edw 7, c 3), s 10(2), Vol. II, *see infra*

- (iii) Means any other portion of His Majesty's regular forces, by whatever name called, which is declared by Royal Warrant to be a corps for the purposes of this Act, and also
 - (iv) Means any other portion of His Majesty's regular forces employed on any service and not attached to any corps as above defined,
 - (v) and any reference in Part II of this Act to a corps of the regular forces shall be deemed to refer to any such military body as is hereinbefore defined to form a corps, and
- (B) In the case of His Majesty's auxiliary forces—
- (i) Means any such military body, whether known as a territorial regiment or by any different name, as may be from time to time declared by Royal Warrant to be a corps for the purposes of this Act, and is a body, formed by His Majesty, and either consisting of associated battalions of the regular and auxiliary forces, or consisting wholly of a battalion or battalions of the auxiliary forces, and either inclusive or exclusive of the whole or any part of the permanent staff of any part of the auxiliary forces, and
 - (ii) Means any other portion of His Majesty's auxiliary forces employed in any service, and not attached to any corps as above defined
- (16) The expression "battalion" in the application of this Act to cavalry, artillery, or engineers shall be construed to mean regiment, brigade, or other body into which His Majesty may have been pleased to divide such cavalry, artillery, or engineers
 - (17) The expression "regimental" means connected with a corps, or with any battalion or other sub-division of a corps
 - (18) The expression "military decoration" means any medal, clasp, good conduct badge, or decoration
 - (19) The expression "military reward" means any gratuity or annuity for long service or good conduct, it also includes any good conduct pay or pension and any other military pecuniary reward
 - (20) The expression "enemy" includes all armed mutineers, armed rebels, armed rioters, and pirates
 - (21) The expression "India" means British India, together with any territories of any native prince or chief under the suzerainty of His Majesty exercised through the Governor General of India or through any governor or other officer subordinate to the Governor General of India, and the expression "British India" means all territories and places within His Majesty's dominions which are for the time being governed by His Majesty through the Governor General of India, or through any governor or other officer subordinate to the Governor General of India,

- (22) The expression " native of India " means a person triable and punishable under Indian military law as defined by this Act
- (23) The expression " colony " means any part of His Majesty's dominions exclusive of the British Islands and of British India, and includes Cyprus, and any British protectorate and where parts of such dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony
- (24) The expression " foreign country " means any place which is not situate in the United Kingdom, a colony, or India, as above defined, and is not on the high seas
- (25) The expression " beyond the seas " means out of the United Kingdom, the Channel Islands, and Isle of Man , and the expression " station beyond the seas " includes any place where any of His Majesty's forces are serving out of the United Kingdom, the Channel Islands, and Isle of Man
- (26) The expression " governor general " in its application to India means the Governor General of India in Council
- (27) The expression " governor " as respects the presidency of Bengal means the Governor General of India in Council, and as respects the presidencies of Madras and Bombay means the Governor in Council of the presidency, and in its application to a colony ¹ { means the Governor General, Governor, High Commissioner, or Commissioner and } includes the lieutenant governor or other officer administering the government of the colony
- (28) The expressions " oath " and " swear," and other expressions relating thereto, include affirmation or declaration, affirm or declare and expressions relating thereto, in cases where an affirmation or declaration is by law allowed instead of an oath
- (29) The expression " superior court," in the United Kingdom means His Majesty's High Court of Justice in England, the Court of Session in Scotland, and His Majesty's High Court of Justice at Dublin :
- (30) The expression " supreme court " means, as regards India, any high court or any chief court , and the expression " court of superior jurisdiction, " as regards a colony, means a court exercising in that colony the like authority as the High Court of Justice in England
- (31) The expression " civil court " means, with respect to any crime or offence, a court of ordinary criminal jurisdiction, and includes a court of summary jurisdiction

¹ These words were inserted by the Army (Annual) Act, 1909 (9 Edw 7, c 3), s 11, Vol II: *see infra*.

- (32) The expression "prescribed" means prescribed by any rules of procedure made in pursuance of this Act
- (33) The expression "misdemeanor" as far as regards Scotland, means a crime or offence, and so far as regards India, means a crime punishable by fine and rigorous or simple imprisonment at the discretion of the court
- (34) The expression "Summary Jurisdiction Acts"—
- (a) As regards England has the same meaning as in the Summary Jurisdiction Act, 1879,
 - (b) As regards Scotland, means the Summary Procedure Act, 1864, and any Acts amending the same, and
 - (c) As regards Ireland, means within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district and elsewhere in Ireland, the Petty Sessions (Ireland) Act, 1851, and any Act amending the same
- (35) The expression "court of summary jurisdiction"—
- (a) As regards England has the same meaning as in the Summary Jurisdiction Act, 1879, and
 - (b) As regards Ireland means any justice or justices of the peace, police magistrate, stipendiary or other magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to, and
 - (c) As regards Scotland, means the sheriff or sheriff substitute, or any two justices of the peace sitting in open court, or any magistrate or magistrates to whom jurisdiction is given by the Summary Procedure (Scotland) Act, 1864, and
 - (d) As regards India, a colony, the Channel Islands and Isle of Man, means the court, justices or magistrates who exercise jurisdiction in the like cases to those in which the Summary Jurisdiction Acts are applicable
- (36) The expression "court of law" includes a court of summary jurisdiction
- (37) The expression "county court judge" includes—
- (a) In the case of Scotland, the sheriff or sheriff substitute, and
 - (b) In the case of Ireland, the judge of the Civil Bill Court
- (38) The expression "constable" includes a high constable and a commissioner, inspector or other officer of police
- (39) The expression "police authority" means the commissioner, commissioners, justices, watch committee or other authority having the control of a police force.

"Summary
Jurisdiction
Acts"
42 & 43 Vict,
c 49
27 & 28 Vict,
c 53

14 & 15 Vict,
c 93

"Court of
summary
jurisdiction"

41 & 28 Vict,
c 53

- (40) The expression " horse " includes a mule, and the provisions of this Act shall apply to any beast of whatever description, used for burden or draught or for carrying persons in like manner as if such beast were included in the expression " horse "

[Part VI—(Ss 191—193) rep 56 & 57 Vict, c 54 (Stat Law Rev. (No 2)).]

SCHEDULES.

Section 96

FIRST SCHEDULE

FORM OF OATH TO BE TAKEN BY A MASTER WHOSE APPRENTICE HAS ABSCONDED, AND OF JUSTICE'S CERTIFICATE ANNEXED

I *A B*, of _____ do make oath, that I am by trade a
and that _____ was bound to serve as an apprentice to me
in the said trade, by indenture dated the _____ day of _____ for the term of
_____ years, and that the said _____ did on or about the _____ day of _____
abscond and quit my service without my consent, and that to the best of my knowledge
and belief the said _____ is aged about _____ years Witness my hand
and _____ the _____ day of _____ one thousand nine hundred

(Signed) *A B*

I hereby certify that the foregoing affidavit
was sworn before me at _____
this _____ day of _____ one
thousand nine hundred and _____

(Signed) *C D*,
Justice of the Peace for _____

FORM OF OATH TO BE TAKEN BY A MASTER WHOSE INDENTURED LABOURER IN INDIA OR A COLONY HAS ABSCONDED, AND OF JUSTICE'S CERTIFICATE ANNEXED

_____ of _____ do make oath, that _____ was
bound to me to serve as an indentured labourer by indenture dated the _____ day
of _____ for the term of _____ years, and that the said _____ did
on or about the _____ day of _____ abscond and quit my service without
my consent Witness my hand at _____ the _____ day of _____
one thousand nine hundred and _____

(Signed) *A B*

I hereby certify, &c [*as for apprentice*].

SECOND SCHEDULE

BILLETING

PART I

ACCOMMODATION TO BE FURNISHED BY KEEPER OF VICTUALLING HOUSE

A keeper of a victualling house on whom any officer, soldier, or horse is billeted—

- (1) Shall furnish the officer and soldier with lodging and attendance, and
- (2) Shall, if required by the soldier, furnish him for every day of the march, and for not more than two days, if the soldier is halted at an intermediate place on the march for more than two days, and on the day of arrival at the place of final destination, with breakfast, hot dinner, and supper on each day, such meals to consist of such quantities of food and drink as may from time to time be fixed by His Majesty's Regulations not exceeding—
 - (a) For breakfast, six ounces of bread one pint of tea with milk and sugar, four ounces of bacon,
 - (b) For hot dinner, one pound of meat previous to being dressed, eight ounces of bread, eight ounces of potatoes or other vegetables, one pint of beer or mineral water of equal value,
 - (c) For supper, six ounces of bread, one pint of tea with milk and sugar, two ounces of cheese, and
- (3) When a soldier is not so entitled to be furnished with "a meal," shall furnish the soldier with candles, vinegar, and salt, and allow him the use of fire, and the necessary utensils for dressing and eating his meat, and
- (4) Shall furnish stable room and ten pounds of oats, twelve pounds of hay, and eight pounds of straw on every day for each horse

For the purposes of this part of this Schedule the expression "furnished with lodging" shall include the provision of a separate bed for each officer and soldier

PART II

REGULATIONS AS TO BILLETS

- (1) When the troops are on the march the billets given shall except in case of necessity or of an order of a justice of the peace, be upon victualling houses in or within one mile from the place mentioned in the route
- (2) Care shall always be taken that the billets be made out to the less distant victualling houses in which suitable accommodation can be found before billets are made out for the more distant victualling houses
- (3) Except in case of necessity, where horses are billeted, each man and his horse shall be billeted on the same victualling house
- (4) Except in case of necessity, one soldier at least shall be billeted where there are one or two horses, and two soldiers at least where there are four horses, and so in proportion for a greater number
- (5) Except in case of necessity, a soldier and his horse shall not be billeted at a greater distance from each other than one hundred yards

(6) When any soldiers with their horses are billeted upon the keeper of a victualling house who has no stables, on the written requisition of the commanding officer present the constable shall billet the soldiers and their horses, or the horses only, on the keeper of some other victualling house who has stables, and a court of summary jurisdiction upon complaint by the keeper of the last mentioned victualling house may order a proper allowance to be paid to him by the keeper of the victualling house relieved

(7) An officer demanding billets may allot the billets among the soldiers under his command and their horses as he thinks most expedient for the public service, and may from time to time vary such allotment

(8) The commanding officer may, where it is practicable, require that not less than two men shall be billeted in one house

THIRD SCHEDULE

Section 113.

IMPRESSMENT OF CARRIAGES

TABLE OF RATES OF PAYMENT FOR CARRIAGES AND ANIMALS

Carriages and Animals	Rate per mile
<i>In Great Britain</i>	
A wagon with four or more horses, or a wain with six oxen, or four oxen, and two horses	One shilling
A wagon with narrow wheels, or a cart with four horses, carrying not less than fifteen hundredweight	Nine pence
any other cart or carriage, with less than four horses and not carrying fifteen hundredweight	Six pence
<i>In Ireland</i>	
For every hundredweight loaded on any wheeled vehicle	One half penny

The mileage when reckoned for the purpose of payment shall include the distance from home to the place of starting, and the distance home from the place of discharge

REGULATIONS AS TO CARRIAGES AND ANIMALS

(1) Where the whole distance for which a carriage is furnished is under one mile the payment shall be for a full mile

(2) In Ireland, the minimum sum payable for a car shall be threepence, and for a dray, sixpence per mile

(3) In Great Britain when the day's march exceeds fifteen miles, the justice granting his warrant may fix a further reasonable compensation for every mile travelled not exceeding in respect of each mile, the rate of hire authorised to be charged by this Act, when any such additional compensation is granted, the justice shall insert in his own hand in the warrant the amount thereof

(4) In Ireland the payment shall be at the same rate for each hundredweight in excess of the amount which the carriage is liable under this schedule to carry

(5) A carriage shall not be required to travel more than twenty-five miles

(6) A carriage shall not, except in case of pressing emergency, be required to travel more than one day's march prescribed in the route.

(7) In Great Britain a carriage shall not be required to carry more than thirty hundred weight.

(8) In Ireland a carriage shall not be required to carry, if a car, more than six hundred weight, and if a dray more than twelve hundredweight.

(9) The load for each carriage, shall, if required, at the expence of the owner of the carriage, and if the same can be done within a reasonable time without hindrance to His Majesty's service, be weighed before it is placed in the carriage

FOURTH SCHEDULE

FORM OF DESCRIPTIVE RETURN

DESCRIPTIVE RETURN of who* at
on the day of , and was committed to confinement
at on the day of as a deserter [or absentee
without leave] from the Bn of the Regiment of '

* After the word "who," to be inserted either the words "was apprehended," or "surrendered himself," as the case may be

Age	
Hight	Feet Inches
Complexion	
Hair	
Eyes	
Marks	

In uniform or plain clothes	
Probable date and place of attestation	
Probable date of desertion or beginning of absence, and from what place	
Name, occupation, and address of the person by whom or through whose means the deserter [or absentee without leave] was apprehended and secured. *	
Particulars in the evidence on which the prisoner is committed, and showing whether he surrendered or was apprehended, and in what manner and upon what grounds The fullest possible details to be given	

I do hereby certify, that the prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he †

the before mentioned corps, and I recommended ‡ for a reward of s

 _____ } of committing
 magistrate

 _____ }
 _____ } Signature of prisoner
 _____ } Signature of informant.

Or where the prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming

I hereby certify that the above named prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the _____ day of _____ for the purpose of obtaining such evidence from a Secretary of State

 _____ }
 _____ } Signature
 _____ } Residence
 _____ } Post Town

[*Fifth Schedule rep 56 & 57 Vict, c 54 (Stat Law Rev (No 2))*]

* It is important for the public service, and for the interest of the deserter or absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the justice in his own handwriting, or, under his direction, by his clerk

† Insert *is* or *is not a deserter* or *absentee without leave*, from or belongs or does not belong to, as the case may be

‡ The justice will insert the name of the person to whom the reward is due, and the amount [5s, 10s, 15s, or 20s], which, in his opinion, should be granted in this particular case

664 *The India Office Auditor Act, 1881* [44 & 45 Vict., c. 63.]

The Fugitive Offenders Act, 1881 [44 & 45 Vict., c. 69.]

THE INDIA OFFICE AUDITOR ACT, 1881

(44 & 45 Vict., c. 63.)

An Act for providing a Superannuation Allowance for the Auditor of the accounts of the Secretary of State for India in Council and his Assistants

[27th August, 1881]

[Preamble recites 21 & 22 Vict., c. 106 (hereinafter referred to as the Act of 1858) and 22 Vict., c. 26—Rep (U K) 57 & 58 Vict., c. 56 (S L R)]

1. THE auditor of the accounts of the Secretary of State for India in Council and his assistants, including the persons who hold those offices at the time of the passing of this Act, notwithstanding that some of such last mentioned persons have not obtained certificates from the Civil Service Commissioners, shall, for the purposes of superannuation allowance, be in the same position as if they were secretaries, officers, or servants appointed on the establishment of the Secretary of State for India in Council under section sixteen of the Act of 1858, and for the above purposes the existing auditor shall be deemed to have been transferred to his present office from the employment previously held by him

2. THIS Act may be cited as the India Office Auditor Act, 1881

THE FUGITIVE OFFENDERS ACT, 1881

(44 & 45 Vict., c. 69.)

An Act to amend the law with respect to Fugitive Offenders in Her Majesty's Dominions, and for other Purposes connected with the Trial of Offenders

[27th August, 1881]

BE it enacted by the Queen's most excellent Majesty, by and with the advise and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows, (that is to say,)

1. THIS Act may be cited as the Fugitive Offenders Act, 1881

PART I

RETURN OF FUGITIVES

2. WHERE a person accused of having committed an offence to (which this part of this Act applies) in one part of Her Majesty's dominions has left that part, such person (in this Act referred to as a fugitive from that part) if found in another part of Her Majesty's dominions shall be liable to be apprehended and returned in manner provided by this Act to the part from which he is a fugitive

A fugitive may be so apprehended under an endorsed warrant or a provisional warrant

Pension
rights of
India Office
auditor

Short title

Short title

Liability of
fugitive to be
apprehended
and returned.

3. WHEN a warrant has been issued in one part of Her Majesty's dominions for the apprehension of a fugitive from that part, any of the following authorities in another part of Her Majesty's dominions in or on the way to which the fugitive is or is suspected to be, (that is to say,) Endorsing of
warrant for
apprehension
of fugitive

(1) a judge of a superior court in such part, and

(2) in the United Kingdom a Secretary of State and one of the magistrates of the metropolitan police court in Bow Street, and

(3) in a British possession the governor of that possession,

if satisfied that the warrant was issued by some person having lawful authority to issue the same, may endorse such warrant in manner provided by this Act, and the warrant so endorsed shall be a sufficient authority to apprehend the fugitive in the part of Her Majesty's dominions in which it is endorsed, and bring him before a magistrate

4. A MAGISTRATE of any part of Her Majesty's dominions may issue a provisional warrant for the apprehension of a fugitive who is or is suspected of being in or on his way to that part on such information, and under such circumstances, as would in his opinion justify the issue of a warrant if the offence of which the fugitive is accused has been committed within his jurisdiction, and such warrant may be backed and executed accordingly Provisional
warrant for
apprehension
of fugitive

A magistrate issuing a provisional warrant shall forthwith send a report of the issue, together with the information or a certified copy thereof, if he is in the United Kingdom, to a Secretary of State, and if he is in a British possession, to the governor of that possession, and the Secretary of State or governor may, if he think fit, discharge the person apprehended under such warrant

5. A FUGITIVE when apprehended shall be brought before a magistrate, who (subject to the provisions of this Act) shall hear the case in the same manner and have the same jurisdiction and powers, as near as may be (including the power to remand and admit to bail), as if the fugitive were charged with an offence committed within his jurisdiction Dealing with
fugitive when
apprehended.

If the endorsed warrant for the apprehension of the fugitive is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) according to the law ordinarily administered by the magistrate, raises a strong or probable presumption that the fugitive committed the offence mentioned in the warrant, and that the offence is one to which this part of this Act applies, the magistrate shall commit the fugitive to prison to await his return, and shall forthwith send a certificate of the committal and such report of the case as he may think fit, if in the United Kingdom to a Secretary of State and if in a British possession to the governor of that possession

Where the magistrate commits the fugitive to prison he shall inform the fugitive that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *habeas corpus*, or other like process

A fugitive apprehended on a provisional warrant may be from time to time remanded for such reasonable time not exceeding seven days at any one

time, as under the circumstances seems requisite for the production of an endorsed warrant

Return of
fugitive by
warrant

6. UPON the expiration of fifteen days after a fugitive has been committed to prison to await his return, or if a writ of *habeas corpus* or other like process is issued with reference to such fugitive by a superior court, after the final decision of the court in the case,

(1) if the fugitive is so committed in the United Kingdom, a Secretary of State, and

(2) if the fugitive is so committed in a British possession, the governor of that possession,

may, if he thinks it just, by warrant under his hand order that fugitive to be returned to the part of Her Majesty's dominions from which he is a fugitive, and for that purpose to be delivered into the custody of the persons to whom the warrant is addressed, or some one or more of them, and to be held in custody, and conveyed by sea or otherwise to the said part of Her Majesty's dominions, to be dealt with there in due course of law as if he had been there apprehended, and such warrant shall be forthwith executed according to the tenor thereof

The governor or other chief officer of any prison, on request of any person having the custody of a fugitive under any such warrant, and on payment or tender of a reasonable amount for expenses, shall receive such fugitive and detain him for such reasonable time as may be requested by the said person for the purpose of the proper execution of the warrant

Discharge of
person apprehended if not
returned
within one
month.

7. IF a fugitive who, in pursuance of this part of this Act, has been committed to prison in any part of Her Majesty's dominions to await his return, is not conveyed out of that part within one month after such committal, a superior court, upon application by or on behalf of the fugitive, and upon proof that reasonable notice of the intention to make such application has been given, if the said part is the United Kingdom to a Secretary of State, and if the said part is a British possession to the governor of the possession, may, unless sufficient cause is shown to the contrary, order the fugitive to be discharged out of custody

Sending back
of persons
apprehended
if not prosecuted
within
six months or
acquitted

8. WHERE a person accused of an offence and returned in pursuance of this part of this Act to any part of Her Majesty's dominions, either is not prosecuted for the said offence within six months after his arrival in that part, or is acquitted of the said offence, then if that part is the United Kingdom a Secretary of State, and if that part is a British possession the governor of that possession, may, if he think fit, on the request of such person, cause him to be sent back free of cost and with as little delay as possible to the part of Her Majesty's dominions in or on his way to which he was apprehended

Offences to
which this
part of this
Act applies.

9. THIS part of this Act shall apply to the following offences, namely, to treason and piracy, and to every offence, whether called felony, misdemeanor, crime, or by any other name, which is for the time being punishable in the

part of Her Majesty's dominions in which it was committed, either on indictment or information, by imprisonment with hard labour for a term of twelve months or more, or by any greater punishment, and for the purposes of this section, rigorous imprisonment, and any confinement in a prison combined with labour, by whatever name it is called, shall be deemed to be imprisonment with hard labour

This part of this Act shall apply to an offence notwithstanding that by the law of the part of Her Majesty's dominions in or on his way to which the fugitive is or is suspected of being it is not an offence, or not an offence to which this part of this Act applies, and all the provisions of this part of this Act, including those relating to a provisional warrant and to a committal to prison, shall be construed as if the offence were in such last-mentioned part of Her Majesty's dominions an offence to which this part of this Act applies

10. WHERE it is made to appear to a superior court that by reason of the trivial nature of the case, or by reason of the application for the return of a fugitive not being made in good faith in the interests of justice or otherwise, it would, having regard to the distance, to the facilities for communication and to all the circumstances of the case, be unjust or oppressive or too severe a punishment to return the fugitive either at all or until the expiration of a certain period, such court may discharge the fugitive, either absolutely or on bail, or order that he shall not be returned until after the expiration of the period named in the order, or may make such other order in the premises as to the court seems just

Powers of superior court to discharge fugitive when case frivolous or return unjust.

11. IN Ireland the Lord Lieutenant ^{1*} * * * * also Power of the chief secretary ^{1*} * * * may, as well as a Secretary of Lord Lieutenant in State, execute any portion of the powers by this part of this Act vested in a Ireland Secretary of State

PART II

INTER-COLONIAL BACKING OF WARRANTS, AND OFFENCES

Application of Part of Act

12. THIS part of this Act shall apply only to those groups of British possessions to which, by reason of their contiguity or otherwise, it may seem expedient to Her Majesty to apply the same

Applicator of part of Act to the of British Possessions

It shall be lawful for Her Majesty from time to time by Order in Council to direct that this part of this Act shall apply to the group of British possessions mentioned in the Order, and by the same or any subsequent Order to except certain offences from the application of this part of this Act, and to limit the application of this part of this Act by such conditions, exceptions, or qualifications as may be deemed expedient

* Words repealed (U. K.) by 57 & 58 Vict., c. 50 (S. L. R.) have been omitted

Backing of Warrants

Backing in
one British
possession
of warrant
issued in
another of
same group

13. WHERE in a British possession of a group to which this part of this Act applies a warrant has been issued for the apprehension of a person accused of an offence punishable by law in that possession, and such person is or is suspected of being in or on the way to another British possession of the same group, a magistrate in the last-mentioned possession, if satisfied that the warrant was issued by a person having lawful authority to issue the same, may endorse such warrant in manner provided by this Act, and the warrant so endorsed shall be a sufficient authority to apprehend, within the jurisdiction of the endorsing magistrate, the person named in the warrant, and bring him before the endorsing magistrate or some other magistrate in the same British possession

Return of
prisoner ap-
prehended
under
backed
warrant

14. THE magistrate before whom a person so apprehended is brought, if he is satisfied that the warrant is duly authenticated as directed by this Act and was issued by a person having lawful authority to issue the same, and is satisfied on oath that the prisoner is the person named or otherwise described in the warrant, may order such prisoner to be returned to the British possession in which the warrant was issued, and for that purpose to be delivered into the custody of the persons to whom the warrant is addressed, or any one or more of them, and to be held in custody and conveyed by sea or otherwise into the British possession in which the warrant was issued, there to be dealt with according to law as if he had been there apprehended. Such order for return may be made by warrant under the hand of the magistrate making it, and may be executed according to the tenor thereof

A magistrate shall, so far as is requisite for the exercise of the powers of this section, have the same power, including the power to remand and admit to bail a prisoner, as he has in the case of a person apprehended under a warrant issued by him

Backing in
one British
possession of
summons,
etc., of
witness
issued in
another pos-
session of
same group

15. WHERE a person required to give evidence on behalf of the prosecutor or defendant on a charge for an offence punishable by law in a British possession of a group to which this part of this Act applies, is or is suspected of being in or on his way to any other British possession of the same group, a judge, magistrate, or other officer who would have lawful authority to issue a summons, requiring the attendance of such witness, if the witness were within his jurisdiction, may issue a summons for the attendance of such witness, and a magistrate in any other British possession of the same group, if satisfied that the summons was issued by some judge, magistrate, or officer having lawful authority as aforesaid, may endorse the summons with his name, and the witness, on service in that possession of the summons, so endorsed, and on payment or tender of a reasonable amount for his expenses, shall obey the summons, and in default shall be liable to be tried and punished either in the possession in which he is served or in the possession in which the summons was issued, and shall be liable to the punishment imposed by the law of the possession in which he is tried for the failure of a witness to obey such a

summons The expression "summons" in this section includes any subpoena or other process for requiring the attendance of a witness

16. A MAGISTRATE in a British possession of a group to which this part of this Act applies, before the endorsement in pursuance of this part of this Act of a warrant for the apprehension of any person, may issue a provisional warrant for the apprehension of that person, on such information and under such circumstances as would in his opinion justify the issue of a warrant if the offence of which such person is accused were an offence punishable by the law of the said possession, and had been committed within his jurisdiction, and such warrant may be backed and executed accordingly, provided that a person arrested under such provisional warrant shall be discharged unless the original warrant is produced and endorsed within such reasonable time as may under the circumstances seem requisite

Provisional warrant in group of British possessions,

17. If a prisoner in a British possession whose return is authorised in pursuance of this part of this Act is not conveyed out of that possession within one month after the date of the warrant ordering his return, a magistrate or a superior court, upon application by or on behalf of the prisoner, and upon proof that reasonable notice of the intention to make such application has been given to the person holding the warrant and to the chief officer of the police of such possession or of the province or town where the prisoner is in custody, may, unless sufficient cause is shown to the contrary, order such prisoner to be discharged out of custody

Discharge of prisoner not returned within one month to British possession of same group

Any order or refusal to make an order of discharge by a magistrate under this section shall be subject to appeal to a superior court

18. WHERE a prisoner accused of an offence is returned in pursuance of this part of this Act to a British possession, and either is not prosecuted for the said offence within six months after his arrival in that possession or is acquitted of the said offence, the governor of that possession, if he thinks fit, may on the requisition of such person, cause him to be sent back, free of cost and with as little delay as possible, to the British possession in or on his way to which he was apprehended

Sending back of prisoner not prosecuted or acquitted to British possession of same group

19. WHERE the return of a prisoner is sought or ordered under this part of this Act, and it is made to appear to a magistrate or to a superior court that by reason of the trivial nature of the case, or by reason of the application for the return of such prisoner not being made in good faith in the interests of justice or otherwise, it would, having regard to the distance to the facilities of communication, and to all the circumstances of the case be unjust or oppressive, or too severe a punishment, to return the prisoner either at all or until the expiration of a certain period, the court or magistrate may discharge the prisoner either absolutely or on bail, or order that he shall not be returned until after the expiration of the period named in the order or may make such other order in the premises as to the magistrate or court seems just

Refusal to return prisoner where offence too trivial

Any order or refusal to make an order of discharge by a magistrate under this section shall be subject to an appeal to a superior court

PART III

TRIAL, ETC, OF OFFENCES

Offences committed on boundary of two adjoining British possessions
Offences committed on journey between two British possessions

20 WHERE two British possessions adjoin, a person accused of an offence committed on or within the distance of five hundred yards from the common boundary of such possession may be apprehended, tried, and punished in either of such possessions

21. WHERE an offence is committed on any person or in respect of any property in or upon any carriage, cart, or vehicle whatsoever employed in a journey, or on board any vessel whatsoever employed in a navigable river, lake, canal, or inland navigation, the person accused of such offence may be tried in any British possession through a part of which such carriage, cart, vehicle, or vessel passed in the course of the journey or voyage during which the offence was committed, and where the side, bank, centre, or other part of the road, river, lake, canal, or inland navigation along which the carriage, cart, vehicle, or vessel passed in the course of such journey or voyage is the boundary of any British possession, a person may be tried for such offence in any British possession of which it is the boundary.

Provided that nothing in this section shall authorise the trial for such offence of a person who is not a British subject, where it is not shown that the offence was committed in a British possession

Trial of offence of false swearing or giving false evidence

22. A PERSON accused of the offence (under whatever name it is known) of swearing or making any false deposition, or of giving or fabricating any false evidence, for the purposes of this Act, may be tried either in the part of Her Majesty's dominions in which such deposition or evidence is used, or in the part in which the same was sworn, made, given, or fabricated, as the justice of the case may require

Supplemental provision as to trial of person in any place.

23 WHERE any part of this Act provides for the place of trial of a person accused of an offence, that offence shall, for all purposes of and incidental to the apprehension, trial, and punishment of such person, and of and incidental to any proceedings and matters preliminary, incidental to, or consequential thereon, and of and incidental to the jurisdiction of any court, constable, or officer with reference to such offence, and to any person accused of such offence, deemed to have been committed in any place in which the person accused of the offence can be tried for it, and such person may be punished in accordance with the Courts Colonial Jurisdiction Act, 1874¹

24. WHERE a warrant for the apprehension of a person accused of an offence has been endorsed in pursuance of any part of this Act in any part of Her Majesty's dominions, or where any part of the Act provides for the place of trial of a person accused of an offence, every court and magistrate of the part in which the warrant is endorsed or the person accused of the offence can be tried shall have the same power of issuing a warrant to search for any property alleged to be stolen or to be otherwise unlawfully taken or obtained by

37 & 38 V
c 27

¹ See ante

such person, or otherwise to be the subject of such offence, as that court or magistrate would have if the property had been stolen or otherwise unlawfully taken or obtained, or the offence had been committed wholly within the jurisdiction of such court or magistrate

25 WHERE a person is in legal custody in a British possession either in pursuance of this Act or otherwise, and such person is required to be removed in custody to another place in or belonging to the same British possession, such person, if removed by sea in a vessel belonging to Her Majesty or any of Her Majesty's subjects, shall be deemed to continue in legal custody until he reaches the place to which he is required to be removed, and the provisions of this Act with respect to the retaking of a prisoner who has escaped, and with respect to the trial and punishment of a person guilty of the offence of escaping or attempting to escape, or aiding or attempting to aid a prisoner to escape, shall apply to the case of a prisoner escaping while being lawfully removed as aforesaid, in like manner as if he were being removed in pursuance of a warrant endorsed in pursuance of this Act

Removal of
prisoner by
sea from one
place to
another

PART IV

SUPPLEMENTAL

Warrants and Escape

26. AN endorsement of a warrant in pursuance of this Act shall be signed by the authority endorsing the same, and shall authorise all or any of the persons named in the endorsement, and of the persons to whom the warrant was originally directed, and also every constable, to execute the warrant within the part of Her Majesty's dominions or place within which such endorsement is by this Act made a sufficient authority, by apprehending the person named in it, and bringing him before some magistrate in the said part or place, whether the magistrate named in the endorsement or some other

Endorsement
of warrant

For the purposes of this Act every warrant, summons, subpoena and process, and every endorsement made in pursuance of this Act thereon, shall remain in force, notwithstanding that the person signing the warrant or such endorsement dies or ceases to hold office

27. WHERE a fugitive or prisoner is authorised to be returned to any part of Her Majesty's dominions in pursuance of Part One or Part Two of this Act, such fugitive or prisoner may be sent thither in any ship belonging to Her Majesty or to any of her subjects

Conveyance
of fugitives
and
witnesses

For the purpose aforesaid, the authority signing the warrant for the return may order the master of any ship belonging to any subject of Her Majesty bound to the said part of Her Majesty's dominions to receive and afford a passage and subsistence during the voyage to such fugitive or prisoner, and to the person having him in custody, and to the witnesses, so that such master be not required to receive more than one fugitive or prisoner for

every hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of such tonnage

The said authority shall endorse or cause to be endorsed upon the agreement of the ship such particulars with respect to any fugitive, prisoner or witness sent in her as the Board of Trade from time to time require

Every such master shall, on his ship's arrival in the said part of Her Majesty's dominions, cause such fugitive or prisoner, if he is not in the custody of any person, to be given into the custody of some constable, there to be dealt with according to law

Every master who fails on payment or tender of a reasonable amount for expenses to comply with an order made in pursuance of this section, or to cause a fugitive or prisoner committed to his charge to be given into custody as required by this section, shall be liable on summary conviction to a fine not exceeding fifty pounds, which may be recovered in any part of Her Majesty's dominions in like manner as a penalty of the same amount under the Merchant Shipping Act, 1854,¹ and the Acts amending the same

17 & 18
c 104.

Escape of
prisoner from
custody

28. If a prisoner escape, by breach of prison or otherwise, out of the custody of a person acting under a warrant issued or endorsed in pursuance of this Act, he may be retaken in the same manner as a person accused of a crime against the law of that part of Her Majesty's dominions to which he escapes may be retaken upon an escape

A person guilty of the offence of escaping or of attempting to escape, or of aiding or attempting to aid a prisoner to escape, by breach of prison or otherwise, from custody under any warrant issued or endorsed in pursuance of this Act, may be tried in any of the following parts of Her Majesty's dominions, namely, the part to which and the part from which the prisoner is being removed, and the part in which the prisoner escapes, and the part in which the offender is found

Evidence

Depositions
to be evi-
dence and
authentic-
ation of
depositions
and warrants

29 A MAGISTRATE may take depositions for the purposes of this Act in the absence of a person accused of an offence in like manner as he might take the same if such person were present and accused of the offence before him

Depositions (whether taken in the absence of the fugitive or otherwise), and copies thereof, and official certificates of or judicial documents stating facts, may, if duly authenticated, be received in evidence in proceedings under this Act

Provided that nothing in this Act shall authorise the reception of any such depositions copies, certificates, or documents in evidence against a person upon his trial for an offence

Warrants and depositions, and copies thereof, and official certificates of or judicial documents stating facts, shall be deemed duly authenticated for the purposes of this Act if they are authenticated in manner provided for the time being by law, or if they purport to be signed by or authenticated by the

¹ See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), printed *post*

signature of a judge, magistrate, or officer of the part of Her Majesty's dominions in which the same are issued, taken, or made, and are authenticated either by the oath of some witness, or by being sealed with the official seal of a Secretary of State, or with the public seal of a British possession, or with the official seal of a governor of a British possession, or of a colonial secretary, or of some secretary or minister administering a department of the government of a British possession

And all courts and magistrates shall take judicial notice of every such seal as is in this section mentioned, and shall admit in evidence without further proof the documents authenticated by it

Miscellaneous

30 THE jurisdiction under Part One of this Act to hear a case and commit a fugitive to prison to await his return shall be exercised,—

Provision as to exercise of jurisdiction by magistrates

- (1) in England, by a chief magistrate of the metropolitan police courts, or one of the other magistrates of the metropolitan police court at Bow Street, and
- (2) in Scotland, by the sheriff or sheriff substitute of the county of Edinburgh, and
- (3) in Ireland, by one of the police magistrates of the Dublin metropolitan police district, and
- (4) in a British possession, by any judge, justice of the peace, or other officer having the like jurisdiction as one of the magistrates of the metropolitan police court in Bow Street, or by such other court, judge, or magistrate as may be from time to time provided by an Act or ordinance passed by the legislature of that possession

If a fugitive is apprehended and brought before a magistrate who has no power to exercise the jurisdiction under this Act in respect of that fugitive, that magistrate shall order the fugitive to be brought before some magistrate having that jurisdiction, and such order shall be obeyed

31. It shall be lawful for Her Majesty in Council from time to time to make Orders for the purposes of this Act, and to revoke and vary any Order so made; and every Order so made shall while it is in force have the same effect as if it were enacted in this Act

Power as to making and revocation of Orders in Council

An Order in Council made for the purpose of this Act shall be laid before Parliament as soon as may be after it is made if Parliament is then in session, or if not, as soon as may be after the commencement of the then next session of Parliament

32. If the legislature of a British possession pass any Act or ordinance—

- (1) for defining the offences committed in that possession to which this Act or any part thereof is to apply, or
- (2) for determining the court, judge, magistrate officer, or person by whom and the manner in which any jurisdiction or power under this Act is to be exercised, or

Power of legislature of British possession to pass laws for carrying into effect this Act

- (3) for payment of the costs incurred in returning a fugitive or a prisoner or in sending him back if not prosecuted or if acquitted, or otherwise in the execution of this Act, or
- (4) in any manner for the carrying of this Act or any part thereof into effect in that possession,

it shall be lawful for Her Majesty by Order in Council to direct, if it seems to Her Majesty in Council necessary or proper for carrying into effect the objects of this Act, that such Act or ordinance, or any part thereof, shall with or without modification or alteration be recognised and given effect to throughout Her Majesty's dominions and on the high seas as if it were part of this Act

Application of Act

Application of Act to offences at sea or triable in several parts of Her Majesty's dominions.

33. WHERE a person accused of an offence can, by reason of the nature of the offence, or of the place in which it was committed, or otherwise, be under this Act or otherwise, tried for or in respect of the offence in more than one part of Her Majesty's dominions, a warrant for the apprehension of such person may be issued in any part of Her Majesty's dominions in which he can, if he happens to be there, be tried, and each part of this Act shall apply as if the offence had been committed in the part of Her Majesty's dominions where such warrant is issued, and such person may be apprehended and returned in pursuance of this Act, notwithstanding that in the place in which he is apprehended a court has jurisdiction to try him

Provided that if such person is apprehended in the United Kingdom a Secretary of State, and if he is apprehended in a British possession, the governor of such possession, may, if satisfied that, having regard to the place where the witnesses for the prosecution and for the defence are to be found, and to all the circumstances of the case, it would be conducive to the interest of justice so to do, order such person to be tried in the part of Her Majesty's dominions in which he is apprehended, and in such case any warrant previously issued for his return shall not be executed

Application of Act to convicts.

34. WHERE a person convicted by a court in any part of Her Majesty's dominions of an offence committed either in Her Majesty's dominions or elsewhere is unlawfully at large before the expiration of his sentence, each part of this Act shall apply to such person, so far as is consistent with the tenor thereof, in like manner as it applies to a person accused of the like offence committed in the part of Her Majesty's dominions in which such person was convicted

Application of Act to removal of person triable in more than one part of Her Majesty's dominions

35. WHERE a person accused of an offence is in custody in some part of Her Majesty's dominions, and the offence is one for or in respect of which, by reason of the nature thereof or of the place in which it was committed or otherwise, a person may under this Act or otherwise be tried in some other part of Her Majesty's dominions, in such case a superior court, and also if such person is in the United Kingdom a Secretary of State, and if he is in a British possession the governor of that possession, if satisfied that, having

and in the Channel Islands, Isle of Man, and a British possession means any person having authority to issue a warrant for the apprehension of persons accused of offences and to commit such persons for trial

" Offence
punishable
on indictment "

the expression " offence punishable on indictment " means, as regards India, an offence punishable on a charge or otherwise

the expression " oath " includes affirmation or declaration in the case of persons allowed by law to affirm or declare instead of swearing, and the expression " swear " and other words relating to an oath or swearing shall be construed accordingly

the expression " deposition " includes any affidavit, affirmation, or statement made upon oath as above defined

the expression " superior court " means

" Deposition "

" Superior
Court "

(1) in England, Her Majesty's Court of Appeal and High Court¹ * *, and

(2) in Scotland, the High Court of Judiciary, and

(3) in Ireland, Her Majesty's Court of Appeal and Her Majesty's High Court ¹ * * at Dublin, and

(4) in a British possession, any court having in that possession the like criminal jurisdiction to that which is vested in the High Court ¹ * * in England, or such court or judge as may be determined any Act or ordinance of that possession

40 & 41. [*Rep as to U K 57 & 58 Vict, c. 56 (S L R)* Omitted as being spent]

SCHEDULE

[*Rep as to U K 57 & 58 Vict, c. 56 (S L R)* Omitted as being spent]

²THE DOCUMENTARY EVIDENCE ACT, 1882

(45 & 46 Vict, c. 9)

An Act to amend the Documentary Evidence Act, 1868, and other enactments relating to the evidence of documents by means of copies printed by the Government Printers

[*Preamble—Rep (U K) 61 & 62 Vict, c. 22 (S L R)*]

[19th June, 1882]

Short title

1. THIS Act may be cited as the Documentary Evidence Act, 1882

¹ The words " of Justice " were repealed (U K.) by 61 & 62 Vict., c. 22 (S L R)

² This Act may be cited, with 25 others, as the Evidence Act, 1866 to 1895, see the Short Titles Act, 1896 (59 & 60 Vict, c. 14) *post*

2. WHERE any enactment, whether passed before or after the passing of this Act, provides that a copy of any Act of Parliament, proclamation, order, regulation, rule, warrant, circular, list, gazette, or document shall be conclusive evidence, or be evidence, or have any other effect, when purporting to be printed by the Government Printer, or the Queen's Printer, or a printer authorised by Her Majesty, or otherwise under Her Majesty's authority, whatever may be the precise expression used, such copy shall also be conclusive evidence, or evidence, or have the said effect (as the case may be) if it purports to be printed under the superintendence or authority of Her Majesty's Stationery Office

Documents printed under superintendence of Stationery Office receivable in evidence

3. IF any person prints any copy of any Act, proclamation, order, regulation, royal warrant, circular, list, gazette, or document which falsely purports to have been printed under the superintendence or authority of Her Majesty's Stationery Office, or tenders in evidence any copy which falsely purports to have been printed as aforesaid, knowing that the same was not so printed, he shall be guilty of felony, and shall, on conviction, be liable to penal servitude for a term not exceeding seven years, or to be imprisoned for a term not exceeding two years, with or without hard labour

Penalty for forgery

4. THE Documentary Evidence Act, 1868, as amended by this Act, shall apply to proclamations, orders, and regulations issued by the Lord Lieutenant or other chief governor or governors of Ireland, either alone or acting with the advice of the Privy Council in Ireland, as fully as it applies to proclamations, orders, and regulations issued by Her Majesty

Application of Act to Ireland.

In the same Act, the term "the Privy Council" shall include the Privy Council in Ireland, or any committee thereof

In the same Act, and in this Act, the term "the Government Printer" shall include any printer to Her Majesty in Ireland and any printer printing in Ireland under the superintendence or authority of Her Majesty's Stationery Office

THE BOMBAY CIVIL FUND ACT, 1882

(45 & 46 Vict., c 45.)

An Act to make provision for the transfer of the Assets and Liabilities of the Provident Branch of the Bombay Civil Fund and other Funds to the Secretary of State for India in Council

[18th August, 1882]

[Preamble —Rep (U K) 61 & 62 Vict , c 22 (S L R)]

1. [Assets, etc , of Provident Branch of Bombay Civil Fund transferred to Secretary of State —Rep (U K) 61 & 62 Vict , c 22 (S L R) Spent]

Payments charged on said fund to be payable from revenues of India

2. ¹ * * * All existing liabilities of the said fund shall be deemed to be liabilities of the revenues of India, and all such liabilities may be enforced against the Secretary of State for India in Council in like manner as they might have been enforced against the trustees of the said fund if this Act had not been passed, and every civil servant, or widow or child of a civil servant, who shall at the date of such notification be an incumbent of an annuity from the said fund or from any earlier fund, the assets and liabilities of which shall have been transferred as aforesaid, shall be entitled to receive from time to time the amount of such annuity from the revenues of India, and every civil servant, and every widow or child of a civil servant, who shall be a subscriber to the said fund, or shall be an incumbent annuitant of the said fund at or after the date of such notification, shall be entitled to the benefits to which they are entitled under the existing rules at the date of the passing of this Act, with the additional benefit in the case of widows of a pension of sixty pounds per annum, * * * * *

Provided that nothing in this Act contained shall be held to preclude the Secretary of State for India in Council from assigning to the incumbents on and subscribers to the said fund, or to any such widow or child as aforesaid, any benefits in addition to those secured to them by this Act, if on considering the assets and liabilities of the said fund the Secretary of State for India in Council shall deem it reasonable so to do

How notifications, etc., to be given.

3. ALL notifications or applications on the part of the subscribers to or beneficiaries under the said fund which are required or prescribed by the rules of the said fund as existing at the date of this Act shall be given and made in such manner and to such person or persons as the Secretary of State for India in Council shall from time to time appoint

Powers of trustees of fund vested in Secretary of State.

4. ¹ * * * There shall vest in the Secretary of State for India in Council all powers and authorities, discretionary or otherwise, which were prior to the date of this Act vested in the trustees of the said fund, or the subscribers thereto in general meeting. Provided always, that notwithstanding anything herein contained, the Secretary of State for India in Council shall, as far as may be practicable, conform to and adopt the practice heretofore followed in the management of the said fund

Saving for subscribers' claims.

5. PROVIDED that nothing in this Act shall prejudice any claim which may be made by any subscriber to or beneficiary under the said fund, or by the representatives of any such subscriber or beneficiary upon the funds so transferred, and in case any question shall arise between any such subscriber, or the representatives of any deceased subscriber, or the widow or a child of any such subscriber, or the representatives of any such widow or child on the one hand, and the Secretary of State for India in Council on the other as to any liability or alleged liability of the said fund such question shall be determined by Her Majesty's Court of Appeal in such manner as may be provided by any

¹ Words repealed (U K) by 61 & 62 Vict, c 22 (S L R) have been omitted

² The words 'such additional benefit to take effect as from the first of April one thousand eight hundred and eighty-two' were repealed (U K) by 61 & 62 Vict, c. 22 (S L R)

General Orders, or as the said Court may on special application think fit to prescribe, anything in the Statute of Limitations to the contrary notwithstanding

6. [*Assets, etc, of Bengal and Madras Funds may be transferred to Secretary of State after vote —Rep (U K) 61 & 62 Vict, c 22 (S L R) Spent*]

THE RESERVE FORCES ACT, 1882 ¹

(45 & 46 Vict., c. 48.)

An Act to consolidate the Acts relating to the Reserve Forces

[18th August, 1882]

* * * * *

Preliminary

1. THIS Act may be cited as the Reserve Forces Act, 1882

Short title

2. THIS Act shall come into operation on the first day of January one thousand eight hundred and eighty-three, which day is in this Act referred to as the commencement of this Act

Commence
ment of Act.

PART I

ARMY RESERVE

3. IT shall be lawful for Her Majesty to keep up a force in the United Kingdom, called the army reserve, to consist of two classes, as follows —

Establish-
ment of army
reserve

Class I —The first class shall consist of such number of men as may from time to time be provided by Parliament, and shall be liable, when called out on permanent service, to serve either in the United Kingdom or elsewhere, and shall consist of men who, having served in any of Her Majesty's regular forces may either be transferred to the reserve in pursuance of the Army Act, 1881, or be enlisted or re-engaged in pursuance of this Act

44 & 45 Vict,
c 58

For the purpose of establishing a supplementary reserve it shall be lawful for Her Majesty to direct that the first class of the army reserve shall consist of two divisions,²[and in the event of such direction being given men in the second division shall not be liable to be called out on permanent service until directions have been given for calling out the whole of the first division on such service]

Class II —The second class shall consist of such number of men as may from time to time be provided by Parliament, and shall be liable when called

¹ See 7 Edw 7, c 9 and 6 Edw 7, c 11

² This section was repealed (U K.) by 61 & 62 Vict, c 22 (S L R.)

³ For the repeal of these words, see 63 & 64 Vict, c 42, s 1, the repeal does not affect a man who entered the second division before the passing of the repealing statute, except with his consent.

out on permanent service, to serve in the United Kingdom only, and shall consist of men who—

- (a) being out-pensioners of Chelsea Hospital, or (on account of service in the Royal Marines) out-pensioners of Greenwich Hospital, or
- (b) having served in any of Her Majesty's regular forces for not less than the full term of their original enlistment,

may be enlisted or re-engaged in pursuance of this Act

4 EVERY man who enters the army reserve—

- (a) If he enters otherwise than by transfer 'to the reserve in pursuance of the Army Act, 1881,¹ shall be enlisted, and
- (b) If he is re-engaged in the army reserve, shall be re-engaged, in such manner, and for a term of such length, and to begin at such date, as may be prescribed

44 & 45 Vict
c. 58

5. (1) It shall be lawful for a Secretary of State, at any time when occasion appears to require, to call out the whole or so many as he thinks necessary of the men belonging to the army reserve, to aid the civil power in the preservation of the public peace

(2) It shall be lawful for any officer commanding Her Majesty's forces in any town or district, on the requisition in writing of any justice of the peace, to call out for the purpose aforesaid the men belonging to the army reserve who are resident in such town or district, or such of them as he may think necessary

(3) Any power by this section vested in a Secretary of State may as regards men resident in Ireland be exercised also by the Lord Lieutenant

6. (1) WHERE a man belonging to the army reserve—

- (a) Fails without reasonable excuse on two consecutive occasions to comply with the orders or regulations in force under this Act with respect to the payment of the army reserve, or
- (b) When required by or in pursuance of the orders or regulations in force under this Act to attend at any place, fails without reasonable excuse to attend in accordance with such requirement, or
- (c) Uses threatening or insulting language, or behaves in an insubordinate manner, to any officer or warrant or non-commissioned officer who in pursuance of the orders or regulations in force under this Act is acting in the execution of his office, and who would be the superior officer of such man if such man were subject to military law, or
- (d) By any fraudulent means obtains or is accessory to the obtaining of any pay or other sum contrary to the orders or regulations in force under this Act, or
- (e) Fails without reasonable excuse to comply with the orders or regulations in force under this Act,

he shall be guilty of an offence

Procedure
and term of
service on
enlistment or
re engage
ment.

Calling out
army reserve
in aid of the
civil power

Punishment
of certain
offences by
army reserve
men.

(2) A man belonging to the army reserve who commits an offence under this section, whether otherwise subject to military law or not, shall be liable as follows, that is to say,

41 & 45 Vict,
c. 58

(a) be liable to be tried by court-martial, and on conviction to suffer imprisonment, or such less punishment as in the Army Act, 1881,¹ mentioned, or

(b) be liable to be convicted by a court of summary jurisdiction, and to be sentenced to a fine of not less than forty shillings and not more than twenty-five pounds, and in default of payment to imprisonment, with or without hard labour, for any term not less than seven days and not more than the maximum term allowed by law for non-payment of the fine,

and may in any case be taken into military custody

41 & 45 Vict.,
c. 58

(3) Where a man belonging to the army reserve commits in the presence of any officer any offence under this section, or any offence under sub-section two or sub-section three of section one hundred and forty-two of the Army Act, 1881¹ (relating to the punishment of personation), that officer may, if he thinks fit, order such man, in lieu of being taken into military custody, to be taken into custody by any constable, and brought before a court of summary jurisdiction for the purpose of being dealt with by that court

(4) ²A certificate purporting to be signed by an officer who is therein mentioned as an officer appointed to pay a man belonging to the army reserve, and stating that such man has failed on two consecutive occasions to comply with the orders or regulations in force under this Act with respect to the payment of the army reserve, shall, without proof of the signature or appointment of such officer, be evidence of such failure

(5) Where a man belonging to the army reserve is required by or in pursuance of the orders or regulations in force under this Act to attend at any place, a certificate purporting to be signed by an officer or person who is mentioned in such certificate as appointed to be present at such place for the purpose of inspecting men belonging to the army reserve, or for any other purpose connected with such reserve, and stating that the man failed to attend in accordance with the said requirement, shall, without proof of the signature or appointment of such officer or person, be evidence of such failure

7. A MAN belonging to the army reserve shall not be liable to serve the office of constable, or any other parochial, township, or borough office

Men exempt
from parish
officers, etc

PART II

MILITIA RESERVE

8 (1) It shall be lawful for Her Majesty to keep up a force in the United Kingdom called the militia reserve, consisting of such number of men as may from time to time be provided by Parliament

Establish-
ment of
militia
reserve

¹ Printed *ante*

² See 7 Edw 7, c 9, s. 35

(2) A Secretary of State may cause to be enlisted from time to time in the militia reserve such militiamen as are willing to enlist themselves, not exceeding the prescribed number (if any) out of any particular corps

Term of
service, and
re engage-
ment e

9 (1) EVERY man enlisted in the militia reserve shall be enlisted to serve either for six years or for the residue of the term of his militia engagement

(2) A man in the militia reserve who is re-engaged as a militiaman may also be re-engaged in the militia reserve for the prescribed period, not exceeding the term for which he is re-engaged as a militiaman.

Effect of
enlistment on
position as
militiaman.

10. (1) A man belonging to the militia reserve shall, subject to the provisions of this Act, continue to be for all purposes a militiaman, and if he has enlisted in the militia reserve for a period which will expire subsequently to the expiration of his militia engagement he shall be deemed to have enlisted in the militia for such longer period

(2) A Secretary of State may in his discretion at any time discharge a man belonging to the militia reserve from his engagement, and a man so discharged shall thenceforth for the remainder of his engagement in the militia reserve be a militiaman only, and may be discharged from the militia or otherwise dealt with accordingly

(3) When a man has enlisted in the militia reserve, his place in the militia shall not be deemed vacant until directions are given for calling him out on permanent service, but when such directions are given his place shall be deemed vacant, and shall be filled in manner provided by law with respect to vacancies in the militia

(4) When a man who has been so called out is released from permanent service on the ground of his services being no longer required, he shall again become for the remainder (if any) of his engagement a militiaman in the corps to which he previously belonged, with rank and pay not lower than he was entitled to before he entered on permanent service, and if there is no vacancy he shall be deemed to be a supernumerary until there is a vacancy

¹Provided that—

- (a) the rank of any such man shall not be lower than that to which he was entitled in the army immediately before he was released from permanent service, and
- (b) if, whilst on permanent service his rank has been reduced below that to which he was entitled before being called out on permanent service, and continues below that rank until the time when he is released from permanent service, his rank in the militia shall be correspondingly reduced, and
- (c) if, being of a rank above that of a private in the militia, he has served on permanent service as a private, and whilst so serving has been awarded any punishment which, had he at the time held the rank which he held in the militia, would have involved reduction to a lower rank, his rank in the militia on his being

¹ The proviso was added by 63 & 64 Vict, c 42, s. 2.

released from permanent service shall be reduced accordingly, and

- (d) if under the foregoing provisions the rank of any such man in the militia is raised or reduced above or below that which he held before he entered on permanent service, his pay shall be correspondingly raised or reduced

PART III

GENERAL

Annual Training and Calling out on Permanent Service of Reserves

11. (1) ALL or any of the men belonging to the army reserve and the militia reserve respectively may be called out for annual training at such time or times, and at such place or places within the United Kingdom, and for such period or periods, as may be prescribed, not exceeding in any one year, in the case of a man belonging to the army reserve twelve days or twenty drills, and in the case of a man belonging to the militia reserve fifty-six days

Annual training of reserve forces.

(2) Every man so called out may during his annual training be attached to and trained with a body of the regular or auxiliary forces

(3) The annual training under this section of a man belonging to the militia reserve shall be in substitution for the annual training to which he is liable as a militiaman

12. (1) IN case of imminent national danger or of great emergency, it shall be lawful for Her Majesty in Council by proclamation, the occasion being first communicated to Parliament, if Parliament be then sitting, or declared in council and notified by the proclamation, if Parliament be not then sitting, to order that the army reserve and the militia reserve, or either of them, shall be called out on permanent service

Calling out reserve forces on permanent service

(2) It shall be lawful for Her Majesty by any such proclamation to order a Secretary of State from time to time to give, and when given to revoke or vary, such directions as may seem necessary or proper for calling out the forces or force mentioned in the proclamation, or all or any of the men belonging thereto

(3) Every such proclamation and the directions given in pursuance thereof shall be obeyed as if enacted in this Act, and every man for the time being called out by such directions shall attend at the place and time fixed by those directions, and at and after that time shall be deemed to be called out on permanent service

(4) A proclamation under this section shall for the purposes of the Army Act, 1881,² be deemed to be a proclamation requiring soldiers in the reserve to re-enter upon army service

13. WHENEVER Her Majesty orders the army reserve and militia reserve, or either of them, to be called out on permanent service, if Parliament be

Assembly of Parliament when reserve

¹ See the Reserve Forces and Militia Act, 1898 (61 & 62 Vict, c. 9) s. 1, *post*, Vol II

² Printed *ante*.

forces ordered
to be called
out on per-
manent
service

then separated by such adjournment or prorogation as will not expire within ten days, a proclamation shall be issued for the meeting of Parliament within ten days, and Parliament shall accordingly meet and sit upon the day appointed by such proclamation, and shall continue to sit and act in like manner as if it had stood adjourned or prorogued to the same day

Service of
reservemen
called out

14. (1) A MAN belonging to either of the reserve forces when called out on permanent service shall be liable to serve until Her Majesty no longer requires his services, so, however, that he shall not be required to serve for a period exceeding in the whole the remainder unexpired of his term of service in the reserve force to which he belongs, and any further period not exceeding twelve months during which as a soldier of the regular forces he can, under section eighty-seven of the Army Act, 1881,¹ be detained in service after the time at which he would otherwise be entitled to be discharged 44 & 45 Vict., c. 58

(2) A man called out on permanent service shall during his service form part of the regular forces, and be subject to the Army Act, 1881,¹ accordingly, and the competent military authority within the meaning of Part Two of that Act may, if it seems proper, appoint him to any corps as a soldier of the regular forces, and the competent military authority within the meaning of the said Part Two may within three months after such appointment transfer him to any other corps of the regular forces, ²[so, however, that he shall not without his consent be appointed or transferred to a corps which is not in the arm or branch in which he previously served] 44 & 45 Vict., c. 58

(3) Nothing in this section shall render a man in the second class of the army reserve liable to serve out of the United Kingdom, and such man may from time to time be transferred from one corps to another for the purpose of securing his non-liability to serve out of the United Kingdom

Punishment
for non-
attendance
for annual
training or
permanent
service, etc

15. (1) WHEN a man belonging to the army or militia reserve is called out for annual training or on permanent service, or when a man belonging to the army reserve is called out in aid of the civil power, and such man, without leave lawfully granted or such sickness or other reasonable excuse as may be allowed in the prescribed manner, fails to appear at any time and place at which he is required upon such calling out to attend, he shall—

(a) If called out on permanent service, or in aid of the civil power, be guilty, according to the circumstances, of deserting within the meaning of section twelve, or of absenting himself without leave within the meaning of section fifteen, of the Army Act, 1881,¹ and 44 & 45 Vict., c. 58

(b) If called out for annual training, be guilty of absenting himself without leave within the meaning of section fifteen of the Army Act, 1881¹ 44 & 45 Vict., c. 58

(2) A man belonging to the army or militia reserve who commits an offence under this section, or under section twelve or section fifteen of the Army

¹ Printed *ante*.

² As to the repeal of these words, see 6 Edw. 7, c. 11, s. 2

44 & 45 Vict, Act, 1881,¹ whether otherwise subject to military law or not, shall be liable
c 58 as follows, that is to say,

- (a) be liable to be tried by court-martial, and convicted and punished accordingly, or
- (b) be liable to be convicted by a court of summary jurisdiction, and to be sentenced to a fine of not less than forty shillings and not more than twenty-five pounds, and in default of payment to imprisonment, with or without hard labour, for any term not less than seven days and not more than the maximum term allowed by law for non-payment of the fine,

and may in any case be taken into military custody

44 & 45 Vict.,
c 58

16. (1) SECTION one hundred and fifty-four of the Army Act, 1881,¹ shall apply to a man who is a deserter or absentee without leave from the army or militia reserve within the meaning of this Act in like manner as it applies to a deserter in that section mentioned, and a man who under that section is delivered into military custody or committed for the purpose of being so delivered may be tried as provided by this Act

Supple-
mental pro-
visions as
to deserters
and absen-
tees

(2) Any person who falsely represents himself to be a deserter or absentee without leave from the army or militia reserve shall be liable, on conviction by a court of summary jurisdiction, to imprisonment with or without hard labour, for a term not exceeding three months

17. (1) ANY person who by any means whatsoever—

- (a) Procures or persuades any man belonging to the army or militia reserve to commit an offence of absence without leave within the meaning of this Act, or attempts to procure or persuade any man belonging to the army or militia reserve to commit such offence, or

Punishment
for inducing
reserve man
to desert or
absent him
self

- (b) Knowing that a man belonging to the army or militia reserve is about to commit an offence of absence without leave within the meaning of this Act, aids or assists him in so doing, or

- (c) Knowing any man belonging to the army or militia reserve to be an absentee without leave within the meaning of this Act, conceals such man, or aids or assists him in concealing himself, or employs or continues to employ him, or aids or assists in his rescue,

shall be liable, on conviction by a court of summary jurisdiction, to a fine not exceeding twenty pounds

44 & 45 Vict.,
c 58

(2) Section one hundred and fifty-three of the Army Act, 1881,¹ shall apply as if a man belonging to the army or militia reserve were a soldier, and as if the word "desert" and other words referring to desertion included desertion within the meaning of this Act as well as desertion within the meaning of the Army Act, 1881¹, and any person who, knowing any man belonging to the

44 & 45 Vict.,
c 58.

army or militia reserve to be a deserter within the meaning of this Act or of the Army Act, 1881,¹ employs or continues to employ such man, shall be deemed to aid him in concealing himself within the meaning of the said section

44 & 45 Vict.,
c 58.

Supplemental

Attestation
of men en-
listing in re-
serve forces

18. (1) SUBJECT to the provisions of this Act, and save as is otherwise prescribed, a man enlisting in the army or militia reserve shall be attested in the same manner as a recruit in the regular forces, and the following sections of the Army Act, 1881¹, (that is to say)—

44 & 45 Vict.,
c 58.

Section eighty (relating to the mode of enlistment and attestation),

Section ninety-eight (imposing a fine for unlawful recruiting),

Section ninety-nine (making recruits punishable for false answers),

Section one-hundred (relating to the validity of attestation and enlistment, or re-engagement),

Section one hundred and one (relating to the competent military authority), and

So much of section one hundred and sixty-three as relates to an attestation paper, or a copy thereof, or a declaration, being evidence, shall apply in like manner as if they were herein re-enacted, with the substitution—

(a) Of “man,” or, if the context so requires, “reserve” man, for “soldier,” and of “army reserve or militia reserve, as the case may be,” for “regular forces”, and

(b) In section one hundred, so far as relates to the militia reserve, of “one whole period of annual training” for “three months”

(2) A man so enlisting may be attested by a regular officer, or by a militia officer, and the sections of the Army Act, 1881, in this section mentioned, and also section thirty-three of the same Act, shall, as applied to the army or militia reserve, be construed as if a justice of the peace in those sections included such an officer

Record of
illegal
absence of
reserve man

19. (1) WHERE a man belonging to the army reserve or militia reserve is subject to military law, and is illegally absent from his duty, a court of inquiry under section seventy-two of the Army Act, 1881,¹ may be assembled after the expiration of twenty-one days from the date of such absence, notwithstanding that the period during which such man was subject to military law is less than twenty-one days, or has expired before the expiration of twenty-one days, and the record mentioned in that section may be entered in manner thereby provided, or in such regimental books and by such officer as may be prescribed

c 58

(2) Where a man belonging to the army reserve or militia reserve fails to appear at the time and place at which he is required upon being called out for annual training or on permanent service to attend, and his absence continues for not less than fourteen days, an entry of such absence shall be made by the

prescribed officer in the prescribed manner and in the prescribed regimental books, and such entry shall be conclusive evidence of the fact of such absence

120. (1) SUBJECT to the provisions of this Act it shall be lawful for Her Majesty, by order signified under the hand of a Secretary of State, from time to time to make, and when made revoke and vary, orders with respect to the government, discipline, and pay of the army reserve and the militia reserve or either of them, and with respect to other matters and things relating to the army reserve and the militia reserve or either of them, including any matter by this Act authorized to be prescribed, or expressed to be subject to orders or regulations Orders and regulations as to reserve forces

(2) Subject to the provisions of any such order, a Secretary of State may from time to time make, and when made revoke and vary, general or special regulations with respect to any matter with respect to which Her Majesty may make orders under this section

(3) Where a man entered the army or militia reserve before the date of any order or regulation made under this Act, nothing in such order or regulation shall render such man liable, without his consent, to be appointed, transferred, or attached to any military body to which he could not, without his consent, have been appointed, transferred, or attached if the said order or regulation had not been made

(4) All orders and general regulations made under this Act shall be laid before both Houses of Parliament as soon as practicable after they are made, if Parliament be then sitting, or if Parliament be not sitting, then as soon as practicable after the beginning of the then next session of Parliament

21 (1) ANY power or jurisdiction given to, and any act or thing to be done by, to, or before any person holding any military office may in relation to the reserve forces be exercised by or done by, to, or before any other person for the time being authorised in that behalf according to the custom of the service Exercise of powers vested in holder of military office

(2) Where by this Act, or by any order or regulation in force under this Act, any order is authorised to be made by any military authority, such order may be signified by an order, instruction, or letter under the hand of any officer authorised to issue orders on behalf of such military authority, and an order, instruction, or letter purporting to be signed by any officer appearing therein to be so authorised shall be evidence of his being so authorized

22 WHERE, either before or after the passing of this Act, a man in the army reserve has been called out on permanent service, and at the termination of such service has been returned to the army reserve, and has become entitled to pension under any order or regulation in force under this Act (whether made before or after such calling out or return), the Commissioners of Chelsea Hospital shall have the same power to award and pay the said pension, and otherwise in relation to the said pension, as they would have if such man had been discharged from the army on reduction Pensions of army reserve men

Application
to reserve
forces of
enactments
respecting
exemptions
from tolls
and convey-
ance of
regular
forces.

23 (1) FOR the purpose of section one hundred and forty-three of the Army Act, 1881,¹ and of all other enactments relating to such duties, tolls, ^{44 & 45 Vict., c. 58} and ferries as are in that section mentioned, officers and men belonging to the army or militia reserve, when going to or returning from any place at which they are required to attend, and for non-attendance at which they are liable to be punished, shall be deemed to be officers and soldiers of Her Majesty's regular forces on duty

(2) All enactments for the time being in force concerning the conveyance by railway or otherwise of any part of the regular forces, and their baggage, stores, arms, ammunition, and other necessaries and things, shall apply as if the army and militia reserve were such part of the regular forces

Notices.

24 WITH respect to notices required in pursuance of the orders or regulation in force under this Act to be given to men belonging to the army or militia reserve, the following provisions shall have effect —

(1) A notice may be served on any such man either by being sent by post to his last registered place of abode, or by being served in the prescribed manner,

(2) Evidence of the delivery at the last registered place of abode of a man belonging to the army or militia reserve of a notice, or of a letter addressed to such man and containing a notice, shall be evidence that such notice was brought to the knowledge of such man,

(3) The publication of a notice in the prescribed manner in the parish in which the last registered place of abode of a man belonging to the army or militia reserve is situate shall be sufficient notice to such man, notwithstanding that a copy of such notice is not served on him,

(4) Every constable, overseer of the poor, and inspector of the poor shall, when so required by or on behalf of a Secretary of State, conform with the orders and regulations for the time being in force under this Act with respect to the publication and service of notices, and in default shall be liable, on conviction by a court of summary jurisdiction, to a fine not exceeding twenty pounds

Trial of
offences.

25 (1) ANY offence which under this Act is punishable on conviction by court-martial shall for all purposes of and incidental to the arrest, trial and punishment of the offender, including the summary dealing with the case by his commanding officer, be deemed to be an offence under the Army Act, 44 & 45 Vict., 1881,¹ with this modification, that any reference in that Act to forfeitures and ^{c. 58} stoppages shall be construed to refer to such forfeitures and stoppages as may be prescribed

(2) Any offence which under this Act is punishable on conviction by a court of summary jurisdiction may be prosecuted, and any fine recoverable on such conviction may be recovered, in manner provided by sections one hundred

and sixty-six, one hundred and sixty-seven, and one hundred and sixty-eight of the Army Act, 1881,¹ in like manner as if those sections were herein re-enacted and in terms made applicable to this Act

(3) Save as provided by the said section one hundred and sixty-six, the minimum fixed by this Act for the amount of any fine or for the term of any imprisonment shall be duly observed by courts of summary jurisdiction, and shall, notwithstanding anything contained in any other Act, not be reduced by way of mitigation or otherwise

(4) For all purposes in relation to the arrest, trial, and punishment of a person for any offence punishable under this Act, including the summary dealing with the case by the commanding officer, this Act shall apply to the Channel Islands and the Isle of Man

26 WITH respect to the trial and punishment of men charged with offences which in pursuance of this Act are cognizable both by a court-martial and by a court of summary jurisdiction, the following provisions shall have effect —

Provisions as to offences both by court-martial and by court of summary jurisdiction

(1) An alleged offender shall not be liable to be tried both by court-martial and by a court of summary jurisdiction, but may be tried by either of such courts, according as may be prescribed by orders or regulations under this Act

(2) Proceedings against an alleged offender, before either a court-martial or his commanding officer or a court of summary jurisdiction, may be instituted whether the term of his reserve service has or has not expired, and may, notwithstanding anything in any other Act, be instituted at any time within two months after the time at which the offence becomes known to an officer who under the orders or regulations in force under this Act has power to direct the offender to be tried by a court-martial or by a court of summary jurisdiction, if the offender is apprehended at that time, or if he is not apprehended at that time, then within two months after the time at which he is apprehended, whether such apprehension is by a civil or military authority, and any limitation contained in any other Act with respect to the time for hearing and determining an offence shall not apply in the case of any proceedings so instituted

(3) For the purposes of this section the expression "tried by court-martial" shall include "dealt with summarily by his commanding officer"

27 (1) SECTION one hundred and sixty-four of the Army Act, 1881¹ (which relates to evidence of the civil conviction or acquittal of a person subject to military law), shall apply to a man belonging to the army or militia reserve who is tried by a civil court, whether he is or is not at the time of such trial subject to military law

Evidence

(2) Section one hundred and sixty-three of the Army Act, 1881¹ (relating ^{44 & 45 Vict.} _{c 58} to evidence), shall apply to all proceedings under this Act

Definitions

28 IN this Act, unless the context otherwise requires—

The expression “man” includes a warrant officer not holding an honorary commission, and a non-commissioned officer

The expression “out-pensioners of Chelsea Hospital” includes all persons whose claims for prospective or deferred pension have been registered in virtue of any warrant of Her Majesty

The expression “prescribed” means prescribed by orders or regulations in force under this Act

Other expressions have the same meaning as they have in the Army Act, 1881.¹

In the Army Act, 1881,¹ the expressions “army reserve force” and ^{44 & 45 Vict.,} _{c 58.} “militia reserve force” shall respectively mean the army reserve and militia reserve under this Act

Repeal of
Acts

29 THE Acts mentioned in the schedule to this Act are hereby repealed as from the commencement of this Act to the extent in the third column of that schedule mentioned

Provided as follows—

(1) Such repeal shall not revive any enactment, and shall not, save as herein otherwise provided, affect anything previously done or suffered, or any existing right or title, or any remedy in respect thereof, or the proof of any past act

(2) All orders, warrants, regulations, and directions in relation to the army reserve force or to the militia reserve force which exist at the commencement of this Act shall, so far as consistent with the tenor thereof, be of the same effect as if they were orders or regulations under this Act, and may be revoked or altered accordingly

(3) Any man who at the commencement of this Act belongs to the first or second class of the army reserve force, or to the militia reserve force, shall continue to belong to the first or second class of the army reserve or to the militia reserve under this Act, as the case may be, in like manner as if he had entered the same in pursuance of this Act

(4) Where a man belonging to either the army reserve force or the militia reserve force entered such force before the passing of the Regulation of the Forces Act, 1881,¹ or before the date of any regulation made under the said ^{44 & 45 Vict.,} _{c 57} Act, nothing in the said Act or regulation or in this Act shall require such man without his consent to serve in or be appointed, transferred, or attached to any military body in or to which he could not have been required without his consent to serve or be appointed, transferred, or attached, if the Regulation of the Forces Act, 1881,¹ or this Act, or the said regulation, as the case may be, had not been passed or made, or to serve for any longer period than that for which he was, before the passing of the Regulation of the Forces Act,

¹ Printed *ante*

² Repealed in part (U K) 61 & 62 Vict., c 22 (S L R)

44 & 45 Vict., 1881,¹ or before the date of such regulation as the case may be, liable to
c 57 serve

(5) In the case of any offence committed before the commencement of this Act, if any proceeding for the trial or punishment of the offender has been commenced before the commencement of this Act, such proceedings may be carried on and completed, and the offender may be tried and punished, as if this Act had not passed, but, save as aforesaid, this Act shall apply to the arrest, trial, conviction, and punishment of a person accused of an offence committed before the commencement of this Act (including the dealing with the case by the commanding officer), so however that a person shall not be subject for any such offence to any greater punishment than that to which he was subject before the commencement of this Act, nor to any punishment for anything done before the commencement of this Act which at the time of it being done was not an offence punishable by law.

Where a proclamation has been issued, or any man belonging to the army or militia reserve has been called out before the commencement of this Act, this Act shall apply as if such proclamation had been issued, and men called out in pursuance of this Act

[Schedule Enactments Repealed—Rep (U K) 61 & 62 Vict., c 22 (S L R)]

THE BANKRUPTCY ACT, 1883

(46 & 47 Vict., c. 52.)

An Act to amend and consolidate the Law of Bankruptcy

[25th August, 1883]

* * * * *

118 THE High Court, the county courts, the courts having jurisdiction in bankruptcy in Scotland and Ireland, and every British Court elsewhere having jurisdiction in bankruptcy or insolvency, and the officers of those courts respectively, shall severally act in aid of and be auxiliary to each other in all matters of bankruptcy, and an order of the court seeking aid, with a request to another of the said courts, shall be deemed sufficient to enable the latter court to exercise, in regard to the matters directed by the order, such jurisdiction as either the court which made the request, or the court to which the request is made, could exercise in regard to similar matters within their respective jurisdictions

Courts to be
auxiliary to
each other

119 (1) ANY warrant of a court having jurisdiction in bankruptcy in England may be enforced in Scotland, Ireland, the Isle of Man, the Channel Warrants of
Bankruptcy
Courts

Islands, and elsewhere in Her Majesty's Dominions in the same manner and subject to the same privileges in and subject to which a warrant issued by any justice of the peace against a person for an indictable offence against the laws of England may be executed in those parts of Her Majesty's Dominions respectively in pursuance of the Acts of Parliament in that behalf

(2) A search warrant issued by a court having jurisdiction in bankruptcy for the discovery of any property of a debtor may be executed in manner prescribed or in the same manner and subject to the same privileges in and subject to which a search warrant for property supposed to be stolen may be executed according to law

*	*	*	*	*	*	*
*	*	*	*	*	*	*

THE COLONIAL PRISONERS REMOVAL ACT, 1884

(47 & 48 Vict, c 31)

An Act to make further provision respecting the removal of Prisoners and Criminal Lunatics from Her Majesty's possessions out of the United Kingdom

[28th July, 1884]

[Preamble—Rep (U K) 61 & 62 Vict, c 22 (S L R)]

Preliminary

Short title 1 THIS Act may be cited as the Colonial Prisoners Removal Act, 1884

Prisoners' Removal.

Removal of
prisoners
from British
possessions
in certain
cases

2. WHERE as regards a prisoner undergoing sentence of imprisonment in any British possession for any offence it appears to the removing authority herein-after mentioned either—

- (a) that it is likely that the life of the prisoner will be endangered or his health permanently injured by further imprisonment in such British possession, or
- (b) that the prisoner belonged, at the time of committing the said offence, to the Royal Navy or to Her Majesty's regular military forces, or
- (c) that the offence was committed wholly or partly beyond the limits of the said British possession, or
- (d) that by reason of there being no prison in the said British possession in which the prisoner can properly undergo his sentence or

otherwise the removal of the prisoner is expedient for his safer custody or for more efficiently carrying his sentence into effect, or
(e) that the prisoner belongs to a class of persons who under the law of the said British possession are subject to removal under this Act,

in any such case the removing authority may, subject nevertheless to the regulations in force under this Act, order such prisoner to be removed to any British possession or to the United Kingdom to undergo his sentence or the residue thereof

3 (1) WHERE a prisoner has been removed in pursuance of this Act, a Secretary of State or the Government of a British possession to which the prisoner has been so removed, may order the prisoner, for the purpose of undergoing the residue of his sentence, to be returned to the British possession from which he was removed Return of removed prisoner

(2) If a Secretary of State or the Government of a British possession to which a prisoner is removed under this Act, requires the prisoner to be returned for discharge to the British possession from which he was removed, the prisoner shall, in accordance with the regulations under this Act, be returned to the said British possession for the purpose of being there discharged at the expiration of his sentence. In any other case a prisoner when discharged at the expiration of his sentence shall be entitled to be sent free of cost to the British possession from which he was removed

Provided that where a prisoner at the date of his sentence belonged to the Royal Navy or to Her Majesty's regular military forces, nothing in this section shall require such prisoner to be returned to the British possession from which he was removed, or entitle him to be sent there free of cost

4 (1) IT shall be lawful for Her Majesty in Council from time to time to make, and when made, revoke and vary regulations as to the removal, return, and discharge of prisoners under this Act Regulations as to removal.

(2) The regulations may provide for varying the conditions of a sentence of imprisonment passed in a British possession, where they differ from the conditions of a sentence of imprisonment in the part of Her Majesty's dominions to which the prisoner is removed, with a view to bringing them into conformity with the latter conditions, but the prisoner shall not by reason of such variation undergo an imprisonment of any longer duration, and where the latter conditions appear to a Secretary of State to be more severe than the former conditions, the Secretary of State may remit a portion of the imprisonment, so that the punishment undergone by the prisoner shall not in the opinion of the Secretary of State be more severe than the punishment to which the prisoner was originally sentenced, and the sentence of imprisonment shall, so long as the prisoner remains in the part of Her Majesty's dominions to which he is removed, be carried into effect as if the conditions thereof as so varied were the conditions of the original sentence

(3) The regulations may also provide for the forms to be used under this Act and generally for the execution of this Act

(4) All regulations made under this section shall be duly observed by all persons, and shall be laid before both Houses of Parliament as soon as may be after they are made

Removing
authority

5 The removing authority for the purposes of this Act shall be a Secretary of State acting with the concurrence of the Government of every British possession concerned

Evidence of
act of Gov-
ernment of
British pos-
session or
Secretary of
State

6 (1) The concurrence of the Government of a British possession, and any requisition by the Government of a British possession, may be given or made by the Governor in Council or such other authority as may be from time to time provided by the law of that possession, but shall be signified by writing under the hand of the Governor or of the Colonial Secretary or of any other officer appointed in this behalf by the law of that possession

(2) Any writing purporting to give such concurrence or make such requisition, and to be signed by the Governor or Colonial Secretary or other officer for the time being, shall be conclusive evidence that the concurrence of or requisition by the Government of the British possession has been duly given or made according to law, and any writing purporting to be under the hand of a Secretary of State and to order the removal of a prisoner from a British possession shall be conclusive evidence that such order has been duly given by the Secretary of State, and every such writing as above in this section mentioned shall be admissible in evidence in any court in Her Majesty's dominions without further proof

Warrant for
removal of
prisoner

7 (1) Where the removal of a prisoner from a British possession is ordered in pursuance of this Act, a Secretary of State or the Governor of the British possession may by warrant under his hand direct the prisoner to be removed to the part of Her Majesty's dominions mentioned in the said order, and for that purpose to be delivered into the custody of the persons named or described in the warrant or some one or more of them, and to be held in custody and conveyed by sea or otherwise to the said part of Her Majesty's dominions, there to undergo his sentence, or the residue thereof, until returned in pursuance of this Act or discharged, and such warrant shall be forthwith executed according to the tenor thereof

(2) Where a prisoner is to be returned to a British possession, a Secretary of State or the Governor of the possession in which he has been undergoing his sentence, shall issue a like warrant, which shall be duly executed according to the tenor thereof

(3) Every warrant purporting to be issued in pursuance of this Act, and to be under the hand of a Secretary of State or Governor of a British possession, shall be received in evidence in every court of justice in Her Majesty's dominions without further proof, and shall be evidence of the facts therein stated, and all acts done in pursuance of such warrant shall be deemed to have been authorised by law

8 (1) Every prisoner removed in pursuance of this Act shall, until he is returned in pursuance of this Act, be dealt with in the part of Her Majesty's dominions to which he is removed, in like manner as if his sentence (with such variation, if any, of the conditions thereof as may have been duly made in pursuance of regulations under this Act) had been duly awarded in that part, and shall be subject accordingly to all laws and regulations in force in that part with the following qualifications, that his conviction, judgment and sentence may be questioned in the part of Her Majesty's dominions from which he has been removed in the same manner as if he had not been removed, and that his sentence may be remitted and his discharge ordered in the same manner and by the same authority as if he had not been removed

(2) The officer in charge of any prison, on request by any person having the custody of a prisoner under a warrant issued in pursuance of this Act, and on payment or tender of a reasonable amount for expenses, shall receive such prisoner and detain him for such reasonable time as may be requested by the said person for the purpose of the proper execution of the warrant

9 (1) If a prisoner while in custody in pursuance of this Act, or under a warrant issued in pursuance of this Act, escapes by breach of prison or otherwise, out of custody, he may be retaken in the same manner as a person convicted of a crime against the law of the place to which he escapes may be retaken upon an escape

(2) A person guilty of the offence of so escaping or of attempting so to escape, or of aiding or attempting to aid any such prisoner so to escape, may be tried in any of the following parts of Her Majesty's dominions, namely, the part to which and the part from which the prisoner is being removed or returned, and the part in which the prisoner escapes, and the part in which the offender is found, and such offence shall be deemed to be an offence against the law of the part of Her Majesty's dominions in which he may be so tried, and for all purposes of and incidental to the apprehension, trial, and punishment of the person accused of such offence, and of and incidental to any proceedings and matters preliminary, incidental to or consequential thereon, and of and incidental to the jurisdiction of any court constable or officer with reference to such offence, and to the person accused thereof, such offence shall be deemed to have been committed in the said part, and such person may be

37 & 38 Vict., c. 27. punished in accordance with the Courts (Colonial) Jurisdiction Act, 1847 ¹

Criminal Lunatics

10 (1) The provisions of this Act shall apply to a person in custody as a criminal lunatic in like manner, so far as consistent with the tenor thereof, as they apply to a prisoner undergoing sentence of imprisonment, and separate regulations may be made by Her Majesty in Council under this Act in relation to criminal lunatics and (subject to those regulations) all laws and regulations in force in the part of Her Majesty's dominions in which a criminal

lunatic removed or returned is for the time being in custody under a warrant issued in pursuance of this Act, shall apply to such criminal lunatic as if he had become a criminal lunatic in that part

(2) Where a person, who is a criminal lunatic by reason of being unfit to be tried for an offence, is removed in pursuance of this Act, and a Secretary of State or the Government of the British possession to or from which such person was removed considers that such person has become sufficiently sane to be tried for the said offence and requires him to be returned for trial to the British possession from which he was removed, he shall, in accordance with the regulations under this Act, be returned as a prisoner to the said British possession for the purpose of being there tried for the said offence, and shall be removed thither in custody in like manner as if he had been arrested under a warrant on a charge for the said offence

Miscellaneous

Cost of
removal

11 (1) The cost of the removal of any prisoner or criminal lunatic under this Act and of his maintenance while in confinement, and of his return, and of his being sent after discharge to any place, shall be paid in such manner as may be arranged between the Governments of the British possessions concerned and the Secretary of State, subject, as regards any cost to be paid out of moneys provided by Parliament, to the consent of the ^{1*} *

* : * Treasury

(2) Nothing in this Act shall affect any power to recover the expenses of removing or returning any prisoner or criminal lunatic from the property of such prisoner or criminal lunatic or otherwise

Power of
legislature
of British
possession to
pass laws for
carrying Act
into effect

12 If the legislature of a British possession pass any law—

(a) for determining the authority by whom and the manner in which ~~any~~ any jurisdiction, power, or concurrence under this Act is to be exercised or given, or

(b) for payment of the costs incurred in the removal, maintenance, return, or sending back after discharge of a prisoner or criminal lunatic, or

(c) for dealing in such possession with prisoners or criminal lunatics removed thereto in pursuance of this Act, or

(d) for making any class of prisoners subject to removal under this Act, or

(e) otherwise in any manner for the carrying of this Act or any part thereof into effect as regards the said possession,

it shall be lawful for Her Majesty in Council to direct that such law or any part thereof shall with or without modification or alteration be recognised and given effect to throughout Her Majesty's dominions and on the high seas as if it were part of this Act

* Words repealed (U K) by 61 & 62 Vict, c 22 (S L R) have been omitted

13 (1) It shall be lawful for Her Majesty in Council from time to time to make Orders for the purposes of this Act, and to revoke and vary any Order so made, and every Order so made shall while it is in force have the same effect as if it were enacted in this Act

Power as to making and revocation of Orders in Council

(2) An Order in Council made for the purposes of this Act shall be laid before Parliament as soon as may be after it is made if Parliament is then in session, or, if not, as soon as may be after the commencement of the then next session of Parliament

14. This Act shall extend to the Channel Islands and Isle of Man as if they were part of England and the United Kingdom

Application of Act to Channel Islands and Isle of Man

15. It shall be lawful for Her Majesty in Council from time to time to direct that this Act shall apply, as if, subject to the conditions, exceptions, and qualifications (if any) contained in the Order, any place out of Her Majesty's dominions, in which Her Majesty has jurisdiction, and which is named in the Order, were a British possession and part of Her Majesty's dominions, and to provide for carrying into effect such application

Application of Act to place under foreign jurisdiction Acts See 41 & 42 Vict, c 67

16. (1) Nothing in this Act shall affect the provisions of the Army Act, 1881¹

(2) This Act shall not affect any agreement made either before or after the passing of this Act under the Colonial Prisoners Removal Act, 1869, nor any provisions contained in the Act of the session of the fourteenth and fifteenth years of the reign of Her present Majesty, chapter eighty-one, intituled "An Act to authorise the removal from India of insane persons charged with offences, and to give better effect to inquisitions of lunacy taken in India"

Savings

17. This Act shall apply to a prisoner who has been convicted, and to a criminal lunatic who has become a criminal lunatic, before the passing of this Act, in like manner as if he had been convicted and become a criminal lunatic after the commencement of this Act

Application of Act to existing and criminal lunatics

18. In this Act, unless the context otherwise requires, the following expressions have the following meanings, that is to say,

Definitions

The expression "British possession" does not include any place within the United Kingdom, the Isle of Man, or the Channel Islands, but includes all other territories and places being part of Her Majesty's dominions, and all territories and places within Her Majesty's dominions which are not part of India and are under one legislature shall be deemed to be one British possession, and any part of India under a Governor or Lieutenant-Governor shall be deemed to be one British possession

The expression "India" means all territories and places within Her Majesty's dominions which are subject to the Governor General of India in Council

The expression "legislature" where there are local legislatures, as well as a central legislature, means the central legislature only, and India means the Governor General in Council

44 & 45 Vict., c 58

32 & 33 Vict, c 10

¹The expression "Secretary of State" means one of Her Majesty's Principal Secretaries of State

The expression "Governor" means any person or persons administering the government of a British possession, and includes the Governor General of India and also the Governor and Lieutenant-Governor of any part of India

The expression "Colonial Secretary" includes a person performing the like duties as a Colonial Secretary, whether known as Government Secretary, Chief Secretary to the Government, or by any other title

The expression "prison" includes any place for the confinement or detention of prisoners whether convicted or unconvicted

The expression "sentence of imprisonment" means any sentence involving confinement in a prison, whether combined or not with labour, and whether known as penal servitude, imprisonment with hard labour, rigorous imprisonment, imprisonment, or otherwise, and includes a sentence awarded by way of commutation as well as an original sentence passed by the court

The expression "criminal lunatic" means a person detained in custody by reason of his having been charged with an offence, and either found to have been insane at the time of such offence or found or certified or otherwise lawfully proved to be unfit on the ground of his insanity to be tried for the same, and includes a person convicted of an offence and afterwards certified or otherwise lawfully proved to be insane

THE INDIAN MARINE SERVICE ACT, 1884

(47 & 48 Vict., c. 38)

An Act to provide for the regulation of Her Majesty's Indian Marine Service
[Preamble—Rep (U K) 61 & 62 Vict., c. 22 (S L R)]

[28th July, 1884]

Short title

1. This Act may be cited as the Indian Marine Service Act, 1884

Power for Governor General in Council to make laws for Indian Marine Service

2. The Governor General of India in Council shall have power, subject to the provisions contained in the Indian Councils Act, 1861,² as amended by subsequent Acts, at meetings for the purpose of making laws and regulations, to make laws for all persons employed or serving in or belonging to Her Majesty's Indian Marine Service 24 & 25 c. 67

Provided as follows

(a) A law made under this section shall not apply to any offence, unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters as defined by this Act

(b) The punishments imposed by any such law for offences shall be similar in character to and shall not be in excess of the punishments

¹ Repealed (U K.) 61 & 62 Vict., c. 22 (S L R.)

² Printed *ante*.

this present Parliament assembled, and by the authority of the same, as follows

Amendment of Part III

Amendment
of 29 & 30
Vict, c 109,
s. 58, as to
trial of offen-
ces by
officer in
command
of a ship

1. (1) In section fifty-six of the Naval Discipline Act, 1866, the following enactments shall be substituted for the provisions of that section relating to the trial of an offence by a commanding officer repealed by this Act, and shall be sub-sections two and three of that section and sub-section three shall be numbered four 29 & 30 Vict, c. 109,

(2) Any offence not capital which is triable under this Act, and (except in the cases by this Act expressly provided for) is not committed by an officer, may, under such regulations as the Admiralty from time to time issue, be summarily tried and punished by the officer in command of the ship to which the offender belongs at the time either of the commission or of the trial of the offence, subject to the restriction that the commanding officer shall not have power to award penal servitude or to award imprisonment for more than three months

(3) The power by this section vested in an officer commanding a ship may,—

- (a) as respects persons on board a tender to the ship, be exercised, when the tender is absent from the ship, by the officer in command of the tender, and
- (b) as respects persons on board any boat or boats belonging to the ship, be exercised, when such boat or boats is or are absent on detached service, by the officer in command of the boat or boats, and
- (c) as respects persons subject to this Act on shore on detached service, or such of those persons as are not for the time being made subject to military law by an order under section one hundred and seventy-nine of the Army Act, 1881, be exercised by the officer in immediate command on shore of those persons

44 & 45 Vict,
c 58

Amendment of Part IV

Amendment
of 29 & 30
Vict., c 109,
s. 58, as to
holding or
constitution
of courts-
martial.

2. In section fifty-eight of the Naval Discipline Act, 1866, the following amendments shall be made —

(A) Whereas by sub-section three of section fifty-eight of the Naval Discipline Act, 1866, it is enacted that a court-martial shall not be held unless at least three of Her Majesty's ships, commanded as therein mentioned, are together at the time when such court-martial is held, and it is expedient to reduce the number, therefore 29 & 30 Vict, c 109

two shall be substituted for three in sub-section three of section fifty-eight

(B) There shall be substituted for sub-section seven of section fifty-eight the following sub-section —

(7) No court-martial for the trial of a person below the rank of captain in Her Majesty's navy shall be duly constituted unless the president is a

captain or of higher rank, nor, if the person to be tried is of the rank of commander, unless, in addition to the president, two other members of the court are of the rank of commander or of higher rank

Amendment of Part V.

3. There shall be substituted for sections seventy and seventy-one of the Naval Discipline Act, 1866, the following section, which shall be numbered as section seventy —

Where a person is in pursuance of this Act convicted by a court-martial and either is sentenced or has his sentence commuted to penal servitude, such conviction and sentence shall be of the same effect as if such person had been convicted by a civil court in the United Kingdom of an offence punishable by penal servitude and sentenced by that court to penal servitude, and all enactments relating to a convict so sentenced shall, so far as circumstances admit, apply accordingly, and the said convict shall be removed to some prison in which a convict so sentenced by a civil court in the United Kingdom can be confined either permanently or temporarily, and the order of the Admiralty or of the Commander-in-Chief or of the officer ordering the court-martial by whom such person was convicted, shall be a sufficient warrant for the transfer of the said person to such prison to undergo his sentence according to law, and until he reaches such prison for his detention in naval

Amendment
of s 70 as to
sentence of
penal servi-
tude and im-
prisonment

3 & 30 Vict,
. 109

ordering the court-martial by which such person was sentenced, or, if he was sentenced by the commanding officer of a ship, the order of such commanding officer, shall be a sufficient warrant for the sending of such person to the place of imprisonment there to undergo his sentence according to law, and until he reaches such place of imprisonment, for his detention in naval custody or] in any civil prison or place of confinement

6. There shall be substituted for the portion of section eighty-one of the Naval Discipline Act, 1866, which is repealed by this Act, the following enactment, which shall be sub-section two thereof —

(2) The Admiralty shall have the same power and authority in respect to naval prisons as one of Her Majesty's Principal Secretaries of State has in relation to military prisons under section one hundred and thirty-three of the Army Act, 1881, and that section shall apply as if it were herein re-enacted with the substitution of "the Admiralty" for "a Secretary of State," and of "naval" for "military," and rules and regulations may be made accordingly by the Admiralty.

Supplemental.

7. (1) Every enactment and word of this Act which is expressed to be substituted for or added to any portion of the Naval Discipline Act, 1866, shall form part of that Act in the place assigned to it by this Act, and the Naval Discipline Act, 1866, and all Acts, including this Act, which refers thereto shall, after the commencement of and subject to the savings contained in this Act, be construed as if the said enactment or word had been originally enacted in the Naval Discipline Act, 1866, in the place so assigned, and, where it is substituted for another enactment or word, had been so enacted in lieu of that enactment or word, and the expression "this Act," as used in the Naval Discipline Act, 1866, or this Act, shall be construed accordingly

(2) A copy of the Naval Discipline Act, 1866, with every such enactment and word inserted in the place so assigned, and with the omission of the parts expressly repealed by this Act or by the Statute Law Revision Act, 1875, and with the sections and sub-sections numbered in manner directed by this Act, shall be prepared and certified by the Clerk of the Parliaments, and deposited with the rolls of Parliament, Her Majesty's printers shall print in accordance with the copy so certified all copies of the Naval Discipline Act, 1866, which are printed after the commencement of this Act

Repeal, Commencement, and Short Title

8. Subsections (1), (2) and (3) [*Repeal of Acts and savings — Rep (U K), 61 & 62 Vict., c 22(S L R)*]

(4) Any regulations in force in any naval prison at the commencement of this Act shall continue in force until revoked by regulations made in pursuance of this Act.

Amendment
of s 81 as to
the Admiralty
setting
apart build-
ings and
ships as naval
prisons

29 & 30
Vict., c 109

44 & 45 Vict.,
c 58

Construction
and printing
of Naval Dis-
cipline Act

47 & 48 Vict., c. 39.] *The Naval Discipline Act, 1884.* 703

47 & 48 Vict., c. 64.] *The Criminal Lunatics Act, 1884*

48 & 49 Vict, c. 25.] *The East India Unclaimed Stock Act, 1885*

19. This Act shall come into force at the expiration of six months from the passing thereof, or at any earlier date from time to time fixed by the Admiralty, and the Admiralty may fix different dates for different stations and places, and the day on which this Act comes into operation on any station or in any place shall as regards that station or place be deemed to be the commencement of this Act Commencement of Act.

10. This Act may be cited as the Naval Discipline Act, 1884

Short title

[*Schedule Acts Repealed—Rep (U K), 61 & 62 Vict, c. 22 (S L R)*]

THE CRIMINAL LUNATICS ACT, 1884

(47 & 48 Vict, c. 64.)

An Act to consolidate and amend the Law relating to Criminal Lunatics

14th August, 1884]

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*	*	*	*	*	*

14 & 15 Vict., c. 81 10. (4) When the criminal lunatic was a person removed from India in pursuance of the Lunatics Removal (India) Act, 1851,² all expenses attending the removal of any such person from India, and his safe custody and maintenance, shall continue to be defrayed in the same manner as if this Act had not been passed Provision as to expenses of maintenance of criminal lunatic

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*	*	*	*	*	*

THE EAST INDIA UNCLAIMED STOCK ACT, 1885³

(48 & 49 Vict, c 25)

An Act for making provision for the transfer to the Secretary of State in Council of India of Unclaimed India Stock and Dividends, and for amending the East Indian Railway Company Purchase Act, 1879, and the East Indian Railway (Redemption of Annuities) Act, 1881, and for other purposes

[16th July, 1885]

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1. This Act may be cited as the East India Unclaimed Stock Act, 1885 Short title

2. In this Act, unless the context otherwise requires—

“Secretary of State” means the Secretary of State in Council of India Interpretation.

¹ Repealed (U K.) 61 & 62 Vict, c 22 (S L R)

² Printed ante.

³ This Act may be cited with eighteen others as the East India Loans Acts, 1859 to 1893, see the Short Titles Act, 1896 (59 & 60 Vict, c 14), Vol II.

"India stock," means and includes India five per cent stock, India four per cent stock, India three and a half per cent stock, India three per cent stock, East India four per cent transfer loan, and any India stock from time to time raised in the United Kingdom and transferable at the Bank of England or Bank of Ireland

1 * * * *

"Government Directors" include any ex-officio or other director appointed by the Secretary of State

"Indian railway company" means any railway company constructing or working railways in India

"Person" includes a body of persons corporate or unincorporate

Unclaimed Stock, etc, and Dividends

Unclaimed
moneys
arising from
redemption
of stock.

3. (1) All principal sums of money which have become or may hereafter become payable to any holder of India stock, by reason of its redemption, and which have not been or shall not have been claimed for ten years or more, shall be paid to the Secretary of State, and all principal sums of money which have so become or may hereafter so become payable to any holder of India stock whereon dividend has not been or shall not have been claimed for ten years or more shall be paid to the Secretary of State

(2) All such principal sums so paid may be applied by the Secretary of State as part of the revenues of India or otherwise as he may think fit, subject to the claims of the parties entitled thereto

(3) For the purposes of this Act relating to the application of dividends and the claims of parties entitled, and consequent proceedings, such principal sums of money shall be deemed to be included in the term "stock," and payment thereof in the term "transfer," and repayment thereof in the term "re-transfer"

Unclaimed
stock.

4. (1) All India stock whereon dividend has not or shall not have been claimed for ten years or more (except where payment of dividend has been restrained by a court of justice) shall be transferred in the books of the Bank of England, or (as the case may be) of the Bank of Ireland, to an account to be intituled "The Secretary of State in Council of India Unclaimed Stock Account," to be held by the Secretary of State subject to the claims of the parties entitled thereto The Bank of England, or (as the case may be) the Bank of Ireland, shall, during the six months next previous to such transfer, give notice in writing to the stockholder, at his registered address, of the impending transfer to the Secretary of State

(2) In the event of any stock being redeemed while held by the Secretary of State under the foregoing enactment, the principal sums of money representing such stock shall, for the purposes of this Act relating to the application of dividends and the claims of parties entitled and consequent

¹ The definitions of High Courts and Banks of England and Ireland were repealed (U. K.) by 61 & 62 Vict., c 22 (S. L. R.)

proceedings, be deemed to be included in the term "stock," and repayment thereof in the term "re-transfer"

5. Immediately after every such transfer the name of the person in whose name the stock stood immediately before the transfer, the residence and description of such person, the amount transferred, and the date of transfer, shall be entered in a list to be kept for the purpose by the Bank in whose books the stock stands

List of names from which stock transferred.

A duplicate of such list shall be kept at the India Office

6. Every such transfer shall be made and signed by the accountant general or deputy or assistant accountant general, or secretary or deputy or assistant secretary of the Bank in whose books the stock stands at the time of transfer, and shall be as effectual to all intents as if signed by the person in whose name the stock was then standing

Mode of transfer

7. Where stock is transferred under this Act all dividends accruing thereon after the transfer shall be paid to the Secretary of State, and applied by him as part of the revenues of India, subject to the claims of the parties entitled thereto

Subsequent dividends on stock transferred.

8. The Governor or Deputy Governor of the Bank of England or Ireland may direct the accountant general or deputy or assistant accountant general or secretary or deputy or assistant secretary of that Bank to re-transfer any stock transferred under this Act to any person showing his right thereto to the satisfaction of the Governor or Deputy Governor, and to pay the dividends due thereon, as if the same had not been transferred or paid to the Secretary or State

Re transfer and payment to person showing title

But in case the Governor or Deputy Governor is not satisfied of the right of any person claiming to be entitled to any such stock or dividends, the claimant may, by petition in a summary way, state and verify his claim in the Chancery Division of the High Court

The petition shall be served on the Secretary of State, or on one of his under secretaries, or on his assistant under secretary, at the India Office, and the Court shall make such order thereon (either for re-transfer of the stock to which the petition relates and payment of the dividends accrued thereon, or otherwise), and touching the costs of the application, as to the Court seems just

All costs and expenses incurred by or on behalf of the Secretary of State in resisting or appearing on any such petition, if not ordered by the Court to be paid out of the stock and dividends thereby claimed, shall be paid by the Secretary of State out of the revenues of India

Where any re-transfer or payment is made to any such claimant either with or without the authority of the Court, the Bank of England or of Ireland (as the case requires) shall give notice thereof to the Secretary of State, within three days after making the same

9. Stock exceeding the sum of twenty pounds shall not be re-transferred from the Secretary of State under this Act, nor shall dividends exceeding

Three months' notice before

re transfer
or payment

twenty pounds in the whole be paid to a claimant under this Act, until three months after application made for the same, nor until public notice has been given thereof as in this Act provided.

Advertise-
ments before
re transfer
or payment

10. The Bank of England or of Ireland shall require the applicant to give such public notice as they think fit by advertisements, in the case of either Bank in one or more newspapers circulating in London and elsewhere, and in the case of the Bank of Ireland also in one or more newspapers circulating in Dublin and elsewhere in Ireland

Every such notice shall state the name, residence, and description of the person in whose name the stock stood when transferred to the Secretary of State, the amount thereof, the name of the claimant, and the time at which the re-transfer thereof and payment of dividends will be made if no other claimant sooner appears and makes out his claim

Where any such re-transfer or payment is ordered by the High Court the notice shall also state the purport of the order

Application
to Court
to rescind
order

11. At any time before re-transfer of stock or payment of dividend as aforesaid to a claimant any person may apply to the Chancery Division of the High Court by motion or petition, to rescind or vary any order made for re-transfer or payment thereof

Bank not
responsible
to second
claimant.

12. Where any stock or dividends having been re-transferred or paid as aforesaid to a claimant by either Bank is or are afterwards claimed by another person, the Bank and their officers shall not be responsible for the same to such other claimant, but he may have recourse against the person to whom the re-transfer or payment was made. Provided that if in any case a new claimant establishes his title to any stock or dividends re-transferred or paid to a former claimant, and is unable to obtain transfer on payment thereof from the former claimant, the Court shall, on application by petition by the new claimant, verified as the Court requires, order the Secretary of State to transfer to him such sum in stock, and to pay to him such sum in money for dividend, as the Court thinks just

Order in
favour of
second
claimant
showing
title.

Such transfer shall be made from stock transferred to the Secretary of State under this Act, and such money for dividend shall be paid out of the revenues of India

Payment of
unclaimed
dividends to
Secretary of
State.

13. Where any dividend accrued due on any sum of stock is not claimed for ten years or more, the dividend so unclaimed, and all dividends subsequently accrued due in respect of the same sum of stock and unclaimed, shall be paid to the Secretary of State

All such dividends shall be dealt with in like manner, as nearly as may be, as stock transferred to the Secretary of State under the foregoing provisions of this Act or the dividends accruing thereon after the transfer, as the case may require, and the foregoing provisions of this Act shall accordingly have effect, in relation thereto, and to the application and payment of and claims to the same, as if the foregoing provisions of this Act were repeated and in terms made applicable thereto respectively.

14. The Secretary of State may from time to time empower the Bank of England or of Ireland to investigate the circumstances of any stock or dividends remaining unclaimed with a view to ascertain the owners thereof.

15. All stock described in a stock certificate in respect of which no coupon is presented for payment for ten years or more shall be dealt with in like manner as nearly as may be as stock whereon dividend has not or shall not have been claimed, for ten years or more.

Sums due and unclaimed on coupons shall be dealt with in like manner, as nearly as may be, as unclaimed dividends due in respect of stock.

16. The Banks of England and Ireland and their respective governors, deputy governors, and officers are hereby indemnified in respect of every transaction for or re-transfer of stock or payment of dividends under this Act, and shall not be in any manner responsible to any person having or claiming any interest therein.

to be called respectively Class A and class B, and provision was made by section twenty-three of the said Act for the creation of a sinking fund attached to annuities of Class B derived from the investment of certain deductions to be made from annuities of that class as thereby provided, and it is expedient that so much of the accumulations of the said sinking fund as may be attributable to unclaimed annuities should be repaid to the Secretary of State when the sinking fund shall be distributed according to the provisions of section twenty-five of the said Act

And whereas it is expedient that the Purchase Act should be amended: It is hereby enacted as follows

- (1) Nothing in this section contained shall alter or affect the liability of the Company under the Purchase Act with regard to the moneys before the passing of this Act received by them in respect of the said unclaimed annuities representing the said sum of twenty-three thousand eight hundred and eighty pounds unclaimed capital stock of the Company
- (2) The Secretary of State may henceforth suspend payment to the Company of a portion of the annuity equal in amount to the said unclaimed annuities representing the said sum of twenty-three thousand eight hundred and eighty pounds
- (3) If and whenever any annuities (other than annuities before the passing of this Act paid by the Secretary of State to the Company in respect of the said unclaimed capital stock of the Company) shall have remained or shall remain after payment by the Secretary of State to the Company in the hands of the Company unclaimed for a period of ten years, such annuities shall be repaid to the Secretary of State by the Company less any sum by the Purchase Act authorised to be deducted by the Board of Directors of the Company in respect of the said sinking fund attached to annuities of the said Class B and in respect of expenses in relation to annuities of either class
- (4) The Secretary of State may, after any such repayment, suspend payment to the Company of a portion of the annuity equal in amount to the annuities which have so remained unclaimed for such period of ten years Provided that if there be comprised in any such unclaimed annuities any annuities of the said Class B, the Secretary of State shall, at the times and in the manner by the Purchase Act prescribed for payment of the annuity, pay to the Company so much of such unclaimed annuities as represents the deduction by the Purchase Act authorised to be made by the said Board of Directors in respect of the said sinking fund attached to annuities of the said Class B
- (5) Notwithstanding anything in this section contained, the Secretary of State shall continue to pay to the Company in respect of any

annuities, the payment of which has been suspended, any sums which by the Purchase Act the Board of Directors of the Company are authorised to deduct from the annuities payable to the annuitants of both classes in respect of the expenses of the payment and management of the annuity

- (6) The Board of Directors of the Company, when the time for division of the moneys representing the accumulations of the said sinking fund shall arrive, shall pay to the Secretary of State such part of such accumulations as may be represented by any annuities of the said Class B at that time unclaimed
- (7) The Secretary of State shall hold any moneys representing unclaimed annuities at any time repaid to him by the Company and any moneys paid to him by the Board of Directors on the eventual division of the said sinking fund, and any annuities his obligation to pay which is under this Act at any time suspended, subject to the claim of any person who may at any time, in manner by this Act provided, establish his claim thereto, and subject to such claims the Secretary of State may apply such moneys as part of the revenues of India, or otherwise as he may think fit
- (8) The Secretary of State shall be bound to indemnify the Company against all claims in respect of any moneys representing unclaimed annuities at any time repaid to him by the Company, and of any moneys paid to him by the Board of Directors of the Company, on the eventual division of the said sinking fund, and of any annuities his obligation to pay which is under this Act at any time suspended, and the remedy of any person claiming to be entitled to any such moneys or annuities shall be against the Secretary of State in manner by this Act provided, and not against the Company
- (9) If and whenever any person claiming to be entitled to any moneys representing unclaimed annuities at any time repaid to the Secretary of State by the Company, or to any moneys paid to the Secretary of State by the Board of Directors of the Company on the eventual division of the said sinking fund, or to any unclaimed annuities the payment of which has under any provision of this Act been suspended, establishes his right thereto respectively to the satisfaction of the Secretary of State, the Secretary of State shall forthwith, free of all expense to the claimant, pay to such person the moneys to which he has so established his claim, and shall, if the claim be in respect of unclaimed annuities, give notice in writing to the Board of Directors of the Company that such claim has been so established and thereupon the said Board shall enter the name of such claimant in the proper register of annuitants, and the obligation

of the Secretary of State to pay to the Company the portion of the annuity representing the unclaimed annuities in question shall revive. But in case the Secretary of State is not satisfied of the right of any person claiming to be entitled to any such moneys or unclaimed annuities, as the case may be, the claimant may, by petition in a summary way, state and verify his claim in the Chancery Division of Her Majesty's High Court of Justice, and the Court shall make such order thereon declaring the claimant entitled or not entitled to any such moneys or unclaimed annuities as the case may require, and touching the costs of the application as to the Court seems just, and upon any such order of the Court in favour of any claimant, he shall be entitled to the same rights in respects of the moneys or unclaimed annuities claimed by him as if he had established his right thereto to the satisfaction of the Secretary of State as in this sub-section before mentioned. All costs and expenses incurred by or on behalf of the Secretary of State in resisting or appearing on any such petition, if not ordered by the Court to be paid out of any moneys claimed or otherwise, shall be paid by the Secretary of State out of the revenues of India.

- (10) The Secretary of State shall require the applicant to give such public notice as the Secretary of State thinks fit by advertisement in one or more newspapers circulating in London and elsewhere, and such notice shall contain such particulars as the case requires and as the Secretary of State directs.
- 11) At any time before repayment of any moneys to any claimant or the entry of his name in either register of annuitants, any person may apply to the said Division of the Court, by motion or petition, to rescind or vary any order made for payment or entry. If in any case a new claimant establishes his right to any moneys repaid to the former claimant, or to any annuities in respect of which any former claimant has been entered in either register of annuitants as the holder thereof, and such new claimant is unable to obtain repayment of such moneys from the former claimant, or to procure the entry of his name in the proper register as the holder of any of such annuities, the said Division of the Court shall, on application by petition by the new claimant, verified as the Court requires, order the Secretary of State to pay to such new claimant the sum of money to which he has established his claim, or to purchase for him annuities of the class to which he has established his claim, or (if such new claimant consent) to give him the current value of such annuities in India stock. All moneys which the Court may order the

Secretary of State to pay to or on behalf of any such new claimant shall be paid out of the revenues of India

18. All sums of money already paid or which shall hereafter be paid by the Secretary of State to any Indian railway company for the discharge of any debentures, either before or after the passing of this Act, issued or authorised to be issued under his guarantee, in respect of which no claim has or shall have been made for one year or more after such payment by any party thereto entitled, shall (whether any person is or is not registered as entitled thereto) be repaid to the Secretary of State

The said sums so repaid to the Secretary of State may be applied by him as part of the revenues of India or otherwise as the Secretary of State may think fit, subject to the claims of the parties entitled thereto

19. Where any person claims to be entitled to any sum repaid to the Secretary of State under the last preceding section, the Secretary of State may, on such person showing his right thereto to the satisfaction of the Secretary of State, pay such sum to such person, but in case the Secretary of State is not satisfied of the right of such person, then the person claiming to be entitled to any sum repaid to the Secretary of State may state and verify his claim by petition in the Chancery Division of the High Court in England in a summary way in manner provided by this Act with respect to petitions for stock or dividends, and the provisions of this Act with regard to such petitions and the proceedings consequent thereon shall, with any necessary modifications, apply to claims under this section

20. Where any sum is retained by or repaid to the Secretary of State in respect of unclaimed annuity or unclaimed debentures as by this Act provided, the respective railway companies shall be and hereby are indemnified in respect thereof, and shall not be in any manner responsible to any person having or claiming any interest therein

Miscellaneous

21. No stamp duty shall be paid or chargeable in respect of the transfer of any stock or annuity to or from the Secretary of State pursuant to the provisions of this Act

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It shall be lawful for the Secretary of State, in the case of any Indian railway company, where under his contract with that company he has the power to appoint a Government director but not a person to represent him, from time to time to appoint a person to represent the Government director in his absence at the Board of any such Indian railway company, and any deputy so appointed shall have and may exercise (subject to any regulations of the Secretary of State) all or any of the powers of the Government director

Deputy Government directors.

¹ Preamble to the section was repealed (U. K.) by 61 & 62 Vict., c. 22 (S. L. R.)

Issue of
railway
debentures
to order or
bearer

23. (1) Notwithstanding any provision in any Act of Parliament or deed of settlement or other instrument founding or regulating a company to the contrary, it shall be lawful for any Indian railway company, from time to time, with the sanction of the Secretary of State, and subject to such regulations and conditions as he may think fit to impose, —

- (a) to issue debenture bonds payable to bearer, which shall be negotiable by delivery ;
- (b) to issue debenture bonds payable to order, which shall be negotiable by indorsement of the holder ,
- (c) to issue debenture bonds payable in rupee currency ,
- (d) to make provision for the exchange of debenture bonds on the application of the holder for debenture bonds of any other form or kind issued by the company

(2) This section does not confer any additional or further borrowing powers on any Indian railway company, but applies only to the mode of exercise of borrowing powers conferred independently of this Act

(3) Trustees (unless expressly authorised by the terms of their trust to hold securities payable to bearer) may not hold debenture bonds payable to bearer issued under this section

Returns to
Secretary of
State

24. For all or any of the purposes of this Act the Secretary of State may require any railway company to which this Act applies to furnish such returns and give such information as he may think expedient

Amendment
of 44 & 45
Vict., c. 53.

25. Whereas provision has been made by the East Indian Railway Redemption of Annuities Act, 1881¹ (in this section referred to as the Redemption Act), for the redemption by the Secretary of State of annuities comprised in the annuity created by the East Indian Railway Company Purchase Act, 1879 (in this section referred to as the Purchase Act), and whereas the provisions of the Redemption Act are inapplicable to such of the said annuities as are annuities of the said Class B in section seventeen of this Act referred to, and it is expedient to make provision applicable to the redemption of such annuities, and also for the redemption of annuities of a similar character which have been or may be created for the purchase of Indian railways

42 & 43 Vict.,
c. 206

And whereas under certain contracts made with divers Indian railway companies before the passing of the Redemption Act, the Secretary of State is enabled on terms therein specified to purchase their undertakings either for a capital sum or by means of the creation and grant of an annuity , and whereas the power to create such annuities constitutes a liability contingently chargeable, though not actually charged, on the revenues of India at the date of the passing of the said Act , and whereas it is expedient that the provisions of the Redemption Act should apply to such annuities as and when created It is hereby enacted as follows

- (1) When the Secretary of State redeems any annuities of the said Class B, he shall be liable in respect of his holding from time to

time to contribute rateably with other annuitants to the sinking fund attached to annuities of the said Class B, and in other respects he shall be liable to, and shall have the benefit of, the provisions of sections forty-nine and fifty of the Purchase Act, and on the distribution of the sinking fund attached to annuities of the said Class B, he shall be entitled to receive such share of the sum then distributed as may be attributable to any annuities so redeemed, and any sums which he may contribute to the sinking fund created by the Purchase Act which may be attributable to any annuities redeemed by him shall (by reason of his contribution to the sinking fund) be deemed to have been invested in accordance with the provisions of section two of the Redemption Act, notwithstanding that they have not been set aside and invested in manner directed by section fifty-one of the Purchase Act, and the provisions of the foregoing enactment shall, with any necessary modifications, apply to any annuities similar to the annuities of the said Class B under the purchase Act which have been or may be created for the purchase of any Indian railway

- (2) Section two of the Redemption Act shall be construed and have effect as if the words "now charged or contingently chargeable" were substituted therein for the words "now charged," so as to apply to any annuity which the Secretary of State has created or may create under any of the contracts above referred to

THE EAST INDIA LOAN ACT, 1885.¹

(48 & 49 Vict., c 28)

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India

[22nd July, 1885]

[*Preamble Rep (U K) 61 & 62 Vict , c 22 (S L R')*]

1. It shall be lawful for the Secretary of State in Council of India, at any time or times after the passing of this Act, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole ten millions of pounds sterling, such sum or sums to be raised by the creation and issue of bonds, debentures, or capital stock bearing interest, or partly by one of such modes, and partly by another or others

Power to the Secretary of State in Council of India to raise any sum not exceeding 10,000,000l

¹ This Act may be cited with eighteen others as the East India Loans Acts, 1859 to 1893—See the Short Titles Act, 1896 (59 & 60 Vict , c. 14), Vol II.

As to issue of
bonds

2. All bonds issued under the authority of this Act may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State for India, or one of his under secretaries, or his assistant under Secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit

As to issue
of debentures

3. All debentures issued under the authority of this Act may be ¹ * * * , for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council

As to pay-
ment of prin-
cipal and
interest on
debentures.

4. All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively, and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein, and the principal moneys and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England

Debentures
and coupons
for interest
transferable
by delivery

5. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable by the delivery of such debentures, and the coupons for interest annexed to any debenture issued under the authority of this Act shall also pass by delivery

Capital stock
may be
created and
issued.

6. Any capital stock created under the authority of this Act shall bear such a rate of interest as the Secretary of State in Council may think fit, and such capital stock may be issued on such terms as may be determined by the Secretary of State in Council, and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock

Transfer
books of
such capital
stock to be
kept

7. In case of the creation and issue of any such capital stock there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be made of the said capital stock, and wherein all assignments or transfers of the same, or any part thereof, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorised by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses, and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof, and no other mode of assigning or transferring the said capital stock or any part thereof, or any interest therein, shall be good and available

¹ The words "issued under the hands of two members of the Council, and countersigned as aforesaid" were repealed (U. K.) by 61 & 62 Vict, c. 22 (S. L. R.).

in law, and no stamp duties whatsoever shall be charged on the said transfers or any of them

8. The whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed ten millions

Amount charged on revenues of India not to exceed 10,000,000¹

9. Upon or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal moneys required to be repaid

Power to raise money for payment of principal money

10. All bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the Government of India

Securities, etc., to be charged on revenues of India

11. The provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four,¹ with respect to the composition and agreement for the payment by the East India Company, of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto

Provisions as to composition for stamp duties on India bonds extended to bonds and debentures issued under this Act.

12. All provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture or bond issued under the authority of this Act

Forgery of debentures and bonds to be punishable as forgery of East India bonds

13. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof

Saving borrowing power of Secretary of State in Council.

14. ²* * * Any capital stock created under this Act shall be deemed to be and shall mean India stock within the Act of the twenty-sixth and twenty-seventh Victoria, chapter seventy-three, anything in the said last-mentioned Act to the contrary notwithstanding.

Stock created under this Act to be deemed East India stock.

¹ Printed *ante*.

² Words repealed (U. K.) by 61 & 62 Vict., c. 22 (S. L. R.) have been omitted.

THE SUBMARINE TELEGRAPH ACT, 1885

(48 & 49 Vict, c 49)

An Act to carry into effect an International Convention for the Protection of Submarine Telegraph Cables

[6th August, 1885]

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Short title

1. This Act may be cited as the Submarine Telegraph Act, 1885

Confirmation
of Conven-
tion

2. The Convention of the fourteenth of March one thousand eight hundred and eighty-four mentioned in the schedule in this Act as set forth in that schedule is hereby confirmed, and subject to the provisions of this Act the articles of such Convention (referred to in this Act as the Convention) shall be of the same force as if they were enacted in the body of this Act

Punishment
for violation
of Article 2
of Conven-
tion.

3. (1) A person shall not unlawfully and wilfully, or by culpable negligence, break or injure any submarine cable to which the Convention for the time being applies, in such manner as might interrupt or obstruct in whole or in part telegraphic communication

(2) Any person who acts or attempts to act in contravention of this section shall be guilty of a misdemeanour, and on conviction—

(a) if he acted wilfully, shall be liable to penal servitude for a term not exceeding five years, or to imprisonment, with or without hard labour, for a term not exceeding two years and to a fine either in lieu of or in addition to such penal servitude or imprisonment, and

(b) if he acted by culpable negligence, shall be liable to imprisonment for a term not exceeding three months, without hard labour, and to a fine not exceeding one hundred pounds either in lieu of or in addition to such imprisonment

(3) Where a person does any act with the object of preserving the life or limb of himself or of any other person, or of preserving the vessel to which he belongs or any other vessel, and takes all reasonable precautions to avoid injury to a submarine cable, such person shall not be deemed to have acted unlawfully and wilfully within the meaning of this section

(4) A person shall not be deemed to have unlawfully and wilfully broken or injured any submarine cable, where in the *bonâ fide* attempt to repair another submarine cable injury has been done to such first mentioned cable, or the same has been broken, but this shall not apply so as to exempt such person from any liability under this Act or otherwise to pay the cost of repairing such breakage or injury

(5) Any person who within or (being a subject of Her Majesty) without Her Majesty's dominions in any manner procures, counsels, aids, abets, or is accessory to the commission of any offence under this section, shall be

guilty of a misdemeanour, and shall be liable to be tried and punished for the offence as if he had been guilty as a principal

4. [Rep 50 Vict, c 3, s 3]

5. (1) It is hereby declared that the enactments of the Merchant Shipping Act, 1862¹ and the enactments amending the same, touching regulations as to lights and to signals and for the avoiding of collisions, shall extend to authorised regulations for carrying into effect Articles five and six of the schedule to this Act, within as well as without the territorial waters of Her Majesty's dominions, and regulations may be made, applied, altered, and revoked, and the contravention thereof punished accordingly under the said enactments, and section six of the Sea Fisheries Act, 1883, shall extend to the enforcement of the said regulations as regards sea fishing boats within the limits of that Act

Application of law as to lights and signals or carrying into effect Articles five and six of Convention

(2) If any vessel engaged in the laying or repairing of a submarine cable to which the Convention for the time being applies, interferes contrary to the said regulations or articles with any vessel engaged in fishing, or if the operations of any vessel in connection with any such submarine cable are wilfully delayed so as to interfere with sea fishing, the master of the vessel, or the owner thereof, if it appear that he was in fault, shall be deemed guilty of a breach of the said regulations and may be punished accordingly

6. (1) For the purpose of carrying into effect the Convention, a person commanding a ship of war of Her Majesty or of any foreign state for the time being bound by the Convention, or a ship specially commissioned for the purpose of the Convention by Her Majesty or by the government of such foreign state, may exercise and perform the powers and duties vested in and imposed on such officer by any article in the Schedule to this Act

Powers of British and foreign officers

(2) If any person obstructs any such officer in such exercise or performance, or refuses or neglects to comply with any demand or direction lawfully made or given by him in pursuance of this Act, such person shall be liable, on summary conviction, to a fine not exceeding fifty pounds or to be imprisoned for a term not exceeding two months, with or without hard labour

(3) Any action, prosecution, or proceeding against any officer for any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect, or default complained of

(4) In any such action tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after such tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after such tender or payment, and the defendants shall

¹ See now the Merchant Shipping Act, 1894 (57 & 58 Vict, c 60), printed Vol II.

be entitled to costs, to be taxed as between solicitor and client, as from the time of such tender or payment

(5) Every such action shall be brought in one of Her Majesty's superior courts of the United Kingdom (which courts shall have jurisdiction to try the same wherever the matter complained of occurred) or in a supreme court in India or in a court exercising in a British possession the like authority as the High Court of Justice in England, but in no other court whatsoever

Incorporation of Part X of 17 & 18 Vict, c 104.

7. Part X of the Merchant Shipping Act, 1854¹ (which relates to legal procedure), and the enactments amending the same, so far as unrepealed, shall have effect as if enacted in this Act, and offences under this Act may be tried, and fines under this Act recovered accordingly, save that nothing in the said part shall authorise the award of any punishment not authorized by this Act, or the summary prosecution of any indictable offence under this Act

Evidence

8. (1) Any document drawn up in pursuance of Article seven or Article ten of the schedule to this Act shall be admissible in any proceeding, civil or criminal, as *prima facie* evidence of the facts or matters therein stated

(2) If evidence contained in any such document was taken on oath in the presence of the person charged in such evidence, and such person had an opportunity of cross-examining the person giving such evidence and of making his reply to such evidence, the officer drawing up such document may certify the said facts, or any of them

(3) Any document or certificate in this section mentioned purporting to be signed by an officer authorised to act under the Schedule to this Act for carrying into effect the Convention, shall be admissible in evidence without proof of such signature, and, if purporting to be signed by any other person, shall, if certified by any such officer to have been so signed, be deemed until the contrary is proved to have been signed by such other person

(4) If any person forges the signature of any such officer to any such document as above mentioned, or makes use of any such document knowing the signature thereto to be forged, such person shall be guilty of a misdemeanour and liable on summary conviction to imprisonment for a term not exceeding three months with or without hard labour, and on conviction on indictment to imprisonment with or without hard labour for a term not exceeding two years

Liability of masters of vessels.

9. Where any offence against this Act has been committed by means of a vessel, or of any boat belonging to a vessel, the master of such vessel shall, until some other person is shown to have been in charge of and navigating such vessel or boat, be deemed to have been in charge of and navigating the same, and be liable to be punished accordingly

Savings.

10 The provisions of this Act shall be in addition to and not in derogation of any other provisions existing at common law or under Act of

¹ See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), printed Vol II,

Parliament or under the law of a British possession for the protection of submarine cables, and nothing in this Act shall prevent any person being liable under any Act of Parliament, law of a British possession, or otherwise to any indictment, proceeding, punishment, or penalty other than is provided for any offence by this Act, so that no person shall be punished twice for the same offence, and nothing in this Act, nor any proceedings with respect to any matter, shall exempt a person from any liability in any action or suit with reference to the same matter so that no person shall be required to pay compensation twice in respect of the same injury

11. This Act shall, so far as such extension is consistent with the tenor of this Act, extend to the whole of Her Majesty's dominions, and to all places within the jurisdiction of the Admiral of England, and to all places where Her Majesty has jurisdiction Extent of Act.

12. In this Act, unless the context otherwise requires,—

Definitions

The expression "vessel" means every description of vessel used in navigation in whatever way it is propelled, and any reference to a vessel shall include a reference to a boat belonging to such vessel

The expression "master" includes every person having command or charge of a vessel

The expression "British possession" includes any part of Her Majesty's dominions exclusive of the United Kingdom

The expression "person" includes a body of persons corporate or unincorporate

13. This Act¹ [shall come into force on such day as may be fixed by a notice in that behalf published in the London Gazette, and if the Convention ceases to be binding on Her Majesty, shall cease to be of any effect Commencement and continuance of Act

SCHEDULE

SUBMARINE TELEGRAPHS CONVENTION

Convention for the preservation of telegraphic communications by means of submarine telegraphs made on the 14th of March, 1884, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, His Majesty the German Emperor, King of Prussia, His Excellency the President of the Argentine Confederation, His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary, His Majesty the King of the Belgians, His Majesty the Emperor of Brazil, His Excellency the President of the Republic of Costa Rica, His Majesty the King of Denmark, His Excellency the President of the Dominican Republic, His Majesty the King of Spain, His Excellency the President of the United States of America, His Excellency the President of the United States of Columbia, His Excellency the President of the French

¹ Repealed (U K.) 61 & 62 Vict., c. 22 (S L R.)

Republic, His Excellency the President of the Republic of Guatemala, His Majesty the King of the Hellenes, His Majesty the King of Italy, His Majesty the Emperor of the Ottomans, His Majesty the King of the Netherlands, Grand Duke of Luxemburg, His Majesty the Shah of Persia, His Majesty the King of Portugal and the Algarves, His Majesty the King of Roumania, His Majesty the Emperor of all the Russias, His Excellency the President of the Republic of Salvador, His Majesty the King of Servia, His Majesty the King of Sweden and of Norway, and His Excellency the President of the Oriental Republic of the Uruguay

The following is an English translation of the Convention with the omission of the formal beginning and end —

ARTICLE I

The present Convention applies outside territorial waters to all legally established submarine cables landed on the territories, colonies, or possessions of the one or more of the High Contracting Parties

ARTICLE II.

It is a punishable offence to break or injure a submarine cable, wilfully or by culpable negligence, in such manner as might interrupt or obstruct telegraphic communication, either wholly or partially, such punishment being without prejudice to any civil action for damages

This provision does not apply to cases where those who break or injure a cable do so with the lawful object of saving their lives or their ship, after they have taken every necessary precaution to avoid so breaking or injuring the cable

ARTICLE III

The High Contracting Parties undertake that, on granting a concession for landing a submarine cable, they will insist, so far as possible, upon proper measures of safety being taken, both as regards the track of the cable and its dimensions

ARTICLE IV

The owner of a cable who, on laying or repairing his own cable, breaks or injures another cable, must bear the cost of repairing the breakage or injury, without prejudice to the application, if need be, of Article II of the present Convention

ARTICLE V

Vessels engaged in laying or repairing submarine cables shall conform to the regulations as to signals which have been, or may be, adopted by mutual agreement among the High Contracting Parties, with the view of preventing collisions at sea

When a ship engaged in repairing a cable exhibits the said signals, other vessels which see them, or are able to see them, shall withdraw to or keep

beyond a distance of one nautical mile at least from the ship in question, so as not to interfere with her operations

Fishing gear and nets shall be kept at the same distance

Nevertheless, fishing vessels which see or are able to see a telegraph ship exhibiting the said signals shall be allowed a period of twenty-four hours at most within which to obey the notice so given, during which time they shall not be interfered with in any way

The operations of the telegraph ships shall be completed as quickly as possible

ARTICLE VI

Vessels which see, or are able to see, the buoys showing the position of a cable when the latter is being laid, is out of order, or is broken, shall keep beyond a distance of one-quarter of a nautical mile at least from the said buoys

Fishing nets and gear shall be kept at the same distance

ARTICLE VII

Owners of ships or vessels who can prove that they have sacrificed an anchor, a net, or other fishing gear in order to avoid injuring a submarine cable shall receive compensation from the owner of the cable

In order to establish a claim to such compensation, a statement, supported by the evidence of the crew, should, whenever possible, be drawn up immediately after the occurrence, and the master must, within twenty-four hours after his return to, or next putting into port, make a declaration to the proper authorities

The latter shall communicate the information to the consular authorities of the country to which the owner of the cable belongs

ARTICLE VIII

The tribunals competent to take cognizance of infractions of the present Convention are those of the country to which the vessel on board of which the offence was committed belongs

It is, moreover, understood that, in cases where the provisions in the previous paragraph cannot apply, offences against the present Convention will be dealt with in each of the Contracting States in accordance, so far as the subjects and citizens of those States respectively are concerned, with the general rules of criminal jurisdiction prescribed by the laws of that particular State, or by international treaties

ARTICLE IX

Prosecution for infractions provided against by Articles II, V and VI of the present Convention shall be instituted by the State, or in its name

ARTICLE X

Offences against the present Convention may be verified by all means of proof allowed by the legislation of the country of the court. When the officers commanding the ships of war, or ships specially commissioned for the purpose by one of the High Contracting Parties, have reason to believe that an infraction of the measures provided for in the present Convention has been committed by a vessel other than a vessel of war, they may demand from the captain or master the production of the official documents proving the nationality of the said vessel. The fact of such document having been exhibited shall then be endorsed upon it immediately. Further, formal statements of the facts may be prepared by the said officers, whatever may be the nationality of the vessel incriminated. These formal statements shall be drawn up in the form and in the language used in the country to which the officer making them belongs. They may be considered, in the country where they are adduced, as evidence in accordance with the laws of that country. The accused and the witnesses shall have the right to add, or to have added, thereto, in their own language, any explanations they may consider useful. These declarations shall be duly signed.

ARTICLE XI

The proceedings and trial in cases of infraction of the provisions of the present Convention shall always take place as summarily as the laws and regulations in force will permit.

ARTICLE XII

The High Contracting Parties engaged to take or to propose to their respective Legislatures the necessary measures for insuring the execution of the present Convention, and especially for punishing, by either fine or imprisonment, or both, those who contravene the provisions of Articles II, V and VI.

ARTICLE XIII

The High Contracting Parties will communicate to each other laws already made, or which may hereafter be made, in their respective countries relating to the object of the present Convention.

ARTICLE XIV

States which have not signed the present Convention may adhere to it on making a request to that effect. This adhesion shall be notified through the diplomatic channel to the Government of the French Republic, and by the latter to the other Signatory Powers.

ARTICLE XV

It is understood that the stipulations of the present Convention do not in any way restrict the freedom of action of belligerents.

ARTICLE XVI

The present Convention shall be brought into force on a day to be agreed upon by the High Contracting Powers

It shall remain in force for five years from that day, and unless any of the High Contracting Parties have announced, twelve months before the expiration of the said period of five years, its intention to terminate its operation, it shall continue in force for a period of one year, and so on from year to year

If one of the Signatory Powers denounce the Convention, such denunciation shall have effect only as regards that Power

ARTICLE XVII

The present Convention shall be ratified, and the ratifications exchanged at Paris with as little delay as possible, and, at the latest, at the expiration of a year

ADDITIONAL ARTICLE

The stipulations of the Convention concluded under to-day's date for the protection of submarine cables shall be applicable, in conformity with Article I, to the colonies and possessions of Her Britannic Majesty, with the exception of those herein-after mentioned, namely —

Canada
Newfoundland
The Cape
Natal
New South Wales
Victoria
Queensland
Tasmania
South Australia
Western Australia
New Zealand

Provided always, that the stipulations of the said Convention shall be applicable to any of the above-named colonies or possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative at Paris to the French Minister for Foreign Affairs

Each of the above-named colonies or possessions which may have acceded to the said Convention shall be at liberty to withdraw from it in the same manner as the powers parties to it In the event of any of the said colonies or possessions desiring to withdraw from the Convention, a notification to that effect shall be made by Her Britannic Majesty's representative at Paris to the French Minister for Foreign Affairs

THE INDIAN ARMY PENSION DEFICIENCY ACT, 1885

(48 & 49 Vict, c 7.)

An Act to provide for the discharge of the liability of the Consolidated Fund in respect of certain Indian Army Pensions

[14th August, 1885]

[Preamble—Rep (U K) 61 & 62 Vict, c 22 (S L R)]

Short title

1. This Act may be cited as the Indian Army Pension Deficiency Act, 1885

Establishment of Indian Army Pension Deficiency Fund.

2. There shall be paid to the Commissioners for the Reduction of the National Debt (in this Act referred to as the National Debt Commissioners) the following moneys, that is to say,

- (a) all sums now standing in the books of Her Majesty's Paymaster-General to the account of the Indian Army Non-effective Arrears,
- (b) all sums from time to time paid out of the revenues of India to Her Majesty's Paymaster-General, in respect of the Indian Army pensions which first came into course of payment before the first day of April one thousand eight hundred and eighty-four, or in respect of any other Indian Army pensions mentioned in this Act, and
- (c) the annuity created by this Act

Such moneys are in this Act referred to as the Indian Army Pension Deficiency Fund

Application of Indian Army Pension Deficiency Fund

3. (1) The National Debt Commissioners shall pay out of the Indian Army Pension Deficiency Fund such sums as may from time to time be certified, by one of Her Majesty's Principal Secretaries of State, to be estimated to be required to repay the charge payable in any financial year in respect of Indian Army pensions which first came into course of payment during the period beginning on the first day of April one thousand eight hundred and seventy, and ending on the thirty-first of March one thousand eight hundred and eighty-four and in respect of the Indian Army pensions which were granted to men serving in regiments of the East India Company and transferred to Her Majesty's Army, and which first came into course of payment before the first day of April one thousand eight hundred and seventy

(2) On the determination of all such pensions, all moneys standing to the account of the Indian Army Pension Deficiency Fund shall be applied by the National Debt Commissioners as if they were part of the old sinking fund

Creation of annuity to meet deficiency

4. (1) There shall be charged on and paid out of the Consolidated Fund to the National Debt Commissioners an annuity of ¹[two hundred and fifteen thousand pounds, beginning on the first day of April one thousand eight

¹ Substituted by 59 & 60 Vict, c 28, s. 37 (1) See 61 & 62 Vict., c 22 (S L R)

48 & 49 Vict, c 37] *The Indian Army Pension Deficiency Act, 1885.* 725

48 & 49 Vict., c. 74.] *The Evidence by Commission Act, 1885*

hundred and ninety-six] and payable by such periodical payments as the
* * * Treasury from time to time fix

(2) As soon as all charges on the Indian Army Pension Deficiency Fund cease, the annuity under this section shall determine

²5. (1) The National Debt Commissioners shall from time to time invest any moneys forming part of the Indian Army Pension Deficiency Fund which are not for the time being required for the other purposes of this Act, in any securities in which they may invest moneys held by them on account of savings banks, and may from time to time sell the securities in which they have so invested. All money arising from the income or sale of such securities shall be carried to and form part of the Indian Army Pension Deficiency Fund and may be invested and applied accordingly

(2) The National Debt Commissioners may from time to time lend to the Indian Army Pension Deficiency Fund, on the security of that fund, any moneys held by them on account of savings banks or otherwise, which they have power to invest in Government securities, and any sum so lent shall be a charge on the Indian Army Pension Deficiency Fund, and be repaid out of that fund by an annuity of such amount, and for such term as may be certified by the Comptroller or Assistant Comptroller, and the Actuary of the National Debt Office, to be sufficient to repay the sum borrowed with interest at three and a quarter per cent per annum

(3) Such accounts of the Indian Army Pension Deficiency Fund shall annually be laid before Parliament as the * * * Treasury may direct

THE EVIDENCE BY COMMISSION ACT, 1885³

(48 & 49 Vict, c. 74.)

An Act to amend the Law relating to taking Evidence by Commission in India and the Colonies, and elsewhere in Her Majesty's Dominions

[14th August, 1885]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows

1. This Act may be cited as the Evidence by Commission Act, 1885

Short title

¹ The words " Commissioners of Her Majesty's " were repealed (U K) by 61 & 62 Vict., c 22 (S L R)

² As to the rate of interest, see 59 & 60 Vict., c 28, s 37 (2)

³ This Act may be cited with 25 others as the Evidence Acts, 1806 to 1895—see the Short Title Act, 1896 (59 & 60 Vict., c 14), Vol II

Power to
courts to
nominate
examiner
in civil
proceedings

2. Where in any civil proceeding in any court of competent jurisdiction an order for the examination of any witness or person has been made, and a commission, mandamus, order, or request for the examination of such witness or person is addressed to any court, or to any judge of a court, in India or the Colonies, or elsewhere in Her Majesty's dominions, beyond the jurisdiction of the court ordering the examination, it shall be lawful for such court, or the chief judge thereof, or such judge, to nominate some fit person to take such examination, and any deposition or examination taken before an examiner so nominated shall be admissible in evidence to the same extent as if it had been taken by or before such court or judge

Power in
criminal
proceedings
to nominate
judge or
magistrate
to take
depositions

3. Where in any criminal proceedings a mandamus or order for the examination of any witness or person is addressed to any court, or to any judge of a court, in India or the Colonies, or elsewhere in Her Majesty's dominions, beyond the jurisdiction of the court ordering the examination, it shall be lawful for such court or the chief judge thereof, or such judge, to nominate any judge of such court, or any judge of an inferior court, or magistrate within the jurisdiction of such first-mentioned court, to take the examination of such witness or person, and any deposition or examination so taken shall be admissible in evidence to the same extent as if it had been taken by or before the court or judge to whom the mandamus or order was addressed

Application
of 22 Vict.,
c. 20, as to
conduct -
money, etc.,
to proceed-
ings under
this Act.

4. The provisions of the Act passed in the twenty-second year of Her Majesty, chapter twenty, intituled "An Act to provide for taking evidence in suits and proceedings pending before tribunals in Her Majesty's dominions in places out of the jurisdiction of such tribunals" (which may be cited as the Evidence by Commission Act, 1859),¹ as amended by this Act, shall apply to proceedings under this Act

Amendment
of 22 Vict.,
c. 20, as to
costs

5. The power to make rules conferred by section six of the Evidence by Commission Act, 1859,¹ shall be deemed to include a power to make rules with regard to all costs of or incidental to the examination of any witness or person, including the remuneration of the examiner, if any, whether the examination be ordered pursuant to that Act or under this or any other Act for the time being in force relating to the examination of witnesses beyond the jurisdiction of the court ordering the examination

Oath or
affirmation
of witness.

6. When pursuant to any such commission, mandamus, order, or request as in this Act referred to, any witness or person is to be examined in any place beyond the jurisdiction of the court ordering the examination, such witness or person may be examined on oath, affirmation, or otherwise according to the law in force in the place where the examination is taken, and any deposition or examination so taken shall be as effectual for all purposes as if the witness or person had been examined on oath before a person duly authorised to administer an oath in the court ordering the examination

¹ 22 Vict, c. 20, printed *ante*

THE INTERNATIONAL COPYRIGHT ACT, 1886 ¹

(49 & 50 Vict., c 33)

An Act to amend the Law respecting International and Colonial Copyright

[25th June, 1886]

[Preamble—Rep (U K) 61 & 62 Vict , c 22 (S L R)]

1. (1) This Act may be cited as the International Copyright Act, 1886

Short titles
and construc-
tion.

(2) The Acts specified in the first part of the First Schedule to this Act² together with the enactment specified in the second part of the said schedule are in this Act collectively referred to as the International Copyright Acts

The Acts specified in the Second Schedule to this Act² are in this Act referred to and may be cited collectively as the Copyright Acts

(3) This Act and the International Copyright Acts shall be construed together and may be cited together as the International Copyright Acts 1811 to 1886

2. The following provisions shall apply to an Order in Council under the International Copyright Acts —

Amendment
as to extent
and effect
of order
under Inter-
national
Copyright
Acts

(1) The order may extend to all the several foreign countries named or described therein

(2) The order may exclude or limit the rights conferred by the International Copyright Acts in the case of authors who are not subjects or citizens of the foreign countries named or described in that or any other order, and if the order contains such limitation and the author of a literary or artistic work first produced in one of those foreign countries is not a British subject, nor a subject or citizen of any of the foreign countries so named or described, the publisher of such work, unless the order otherwise provides, shall for the purpose of any legal proceedings in the United Kingdom for protecting any copyright in such work be deemed to be entitled to such copyright as if he were the author, but this enactment shall not prejudice the rights of such author and publisher as between themselves

(3) The International Copyright Acts and an order made thereunder shall not confer on any person any greater right or longer term of copyright in any work than that enjoyed in the foreign country in which such work was first produced

3. (1) An Order in Council under the International Copyright Acts may provide for determining the country in which a literary or artistic work first produced simultaneously in two or more countries, is to be deemed, for the

Simultaneous
publication.

¹ This Act is repealed by the Copyright Act, 1911 (1 & 2 Geo 5, c 46) which will come into operation in British India when proclaimed See 1 & 2 Geo 5, c 46, ss 25, 37 (2) (d), 36 and the second Schedule, Vol II

² Words repealed (U K.) by 61 & 62 Vict, c. 22 (S L R) have been omitted

purpose of copyright, to have been first produced, and for the purposes of this section "country" means the United Kingdom and a country to which an order under the said Acts applies

(2) Where a work produced simultaneously in the United Kingdom, and in some foreign country or countries is by virtue of an Order in Council under the International Copyright Acts deemed for the purpose of copyright to be first produced in one of the said foreign countries and not in the United Kingdom, the copyright in the United Kingdom shall be such only as exists by virtue of production in the said foreign country, and shall not be such as would have been acquired if the work had been first produced in the United Kingdom

Modification
of certain
provisions of
International
Copyright
Acts

4. (1) Where an order respecting any foreign country is made under the International Copyright Acts the provisions of those Acts with respect to the registry and delivery of copies of works shall not apply to works produced in such country except so far as provided by the order

(2) Before making an Order in Council under the International Copyright Acts in respect of any foreign country, Her Majesty in Council shall be satisfied that that foreign country has made such provisions (if any) as it appears to Her Majesty expedient to require for the protection of authors of works first produced in the United Kingdom

Restriction
on trans-
lation.

5. (1) Where a work being a book or dramatic piece is first produced in a foreign country to which an Order in Council under the International Copyright Acts applies, the author or publisher, as the case may be, shall, unless otherwise directed by the order, have the same right of preventing the production in and importation into the United Kingdom of any translation not authorised by him of the said work as he has of preventing the production and importation of the original work

(2) Provided that if after the expiration of ten years, or any other term prescribed by the order, next after the end of the year in which the work, or in the case of a book published in numbers each number of the book, was first produced, an authorised translation in the English language of such work or number has not been produced, the said right to prevent the production in and importation into the United Kingdom of an unauthorised translation of such work shall cease

(3) The law relating to copyright, including this Act, shall apply to a lawfully produced translation of work in like manner as if it were an original work

(4) Such of the provisions of the International Copyright Acts, 1852,¹ relating to translations as are unrepealed by this Act shall apply in like manner as if they were re-enacted in this section

Application
of Act to
existing
works

6. Where an Order in Council is made under the International Copyright Acts with respect to any foreign country, the author and publisher of any literary or artistic work first produced before the date at which such order

¹ 15 & 16 Vict., c 12, printed *ante*.

comes into operation shall be entitled to the same rights and remedies as if the said Acts and this Act and the said order had applied to the said foreign country at the date of the said production. Provided that where any person has before the date of the publication of an Order in Council lawfully produced any work in the United Kingdom, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such production which are subsisting and valuable at the said date

7. Where it is necessary to prove the existence or proprietorship of the copyright of any work first produced in a foreign country to which an Order in Council under the International Copyright Acts applies, an extract from a register or a certificate, or other document stating the existence of the copyright, or the person who is the proprietor of such copyright, or is for the purpose of any legal proceedings in the United Kingdom deemed to be entitled to such copyright, if authenticated by the official seal of a minister of State of the said foreign country, or by the official seal or the signature of a British diplomatic or consular officer acting in such country, shall be admissible as evidence of the facts named therein, and all courts shall take judicial notice of every such official seal and signature as is in this section mentioned, and shall admit in evidence, without proof, the documents authenticated by it

Evidence of
foreign
copyright.

8. (1) The Copyright Acts shall, subject to the provisions of this Act, apply to a literary or artistic work first produced in a British possession in like manner as they apply to a work first produced in the United Kingdom

Application
of Copyright
Acts to
colonies

Provided that—

- (a) the enactments respecting the registry of the copyright in such work shall not apply if the law of such possession provides for the registration of such copyright, and
- (b) where such work is a book the delivery to any persons or body of persons of a copy of any such work shall not be required

(2) Where a register of copyright in books is kept under the authority of the Government of a British possession, an extract from that register purporting to be certified as a true copy by the officer keeping it, and authenticated by the public seal of the British possession, or by the official seal or the signature of the governor of a British possession, or of a colonial secretary, or of some secretary or minister administering a department of the government of a British possession, shall be admissible in evidence of the contents of that register, and all courts shall take judicial notice of every such seal and signature, and shall admit, in evidence, without further proof, all documents authenticated by it

(3) Where before the passing of this Act an Act or ordinance has been passed in any British possession respecting copyright in any literary or artistic works, Her Majesty in Council may take an Order modifying the Copyright Acts and this Act, so far as they apply to such British possession, and to literary and artistic works first produced therein, in such manner as to Her Majesty in Council seems expedient

are under both a central and a local legislature, all parts under one central legislature are for the purposes of this definition deemed to be one British possession

12. [The Acts specified in the third Schedule to this Act are hereby repealed as from the passing of this Act to the extent in the third column of that schedule mentioned ^{Repeal of Acts}

Provided as follows]¹

(a) Where an Order in Council has been made before the passing of this Act under the said Acts as respects any foreign country the enactments hereby repealed shall continue in full force as respects that country until the said Order is revoked

¹[(b) The said repeal and revocation shall not prejudice any rights acquired previously to such repeal or revocation, and such rights shall continue and may be enforced in like manner as if the said repeal or revocation had not been enacted or made]

FIRST SCHEDULE

INTERNATIONAL COPYRIGHT ACTS

PART I

Session and Chapter	Title	Short Title
7 & 8 Vict , c 12	An Act to amend the law relating to International Copyright	The International Copyright Act, 1844
15 & 16 Vict , c 12	An Act to enable Her Majesty to carry into effect a convention with France on the subject of copyright, to extend and explain the International Copyright Acts, and to explain the Acts relating to copyright in engravings	The International Copyright Act, 1852
38 & 39 Vict , c 12	An Act to amend the law relating to International Copyright	The International Copyright Act, 1875

PART II.

Session and Chapter	Title	Enactment referred to
25 & 26 Vict , c 68	An Act for amending the law relating to copyright in works of the fine arts, and for repressing the commission of fraud in the production and sale of such works	Section twelve

¹ Repealed (U K.) 61 & 62 Vict., c 22 (S L R.)

SECOND SCHEDULE
COPYRIGHT ACTS

Session and Chapter	Title	Short Title
8 Geo 2, c 13	An Act for the encouragement of the arts of designing, engraving, and etching, historical and other prints, by vesting the properties thereof in the inventors and engravers during the time therein mentioned	The Engraving Copyright Act, 1734
7 Geo 3, c 38	An Act to amend and render more effectual an Act made in the eighth year of the reign of King George the Second, for encouragement of the arts of designing, engraving, and etching, historical and other prints, and for vesting in and securing to Jane Hogarth, widow, the property in certain prints	The Engraving Copyright Act, 1766
15 Geo 3 c 53 . . .	An Act for enabling the two Universities in England, the four Universities in Scotland, and the several Colleges of Eton, Westminster, and Winchester, to hold in perpetuity their copyright in books given or bequeathed to the said universities and colleges for the advancement of useful learning and other purposes of education, and for amending so much of an Act of the eighth year of the reign of Queen Anne, as relates to the delivery of books to the warehouse keeper of the Stationers Company for the use of the several libraries therein mentioned.	The Copyright Act. 1775
17 Geo 3, c 57	An Act for more effectually securing the property of prints to inventors and engravers by enabling them to sue for and recover penalties in certain cases	The Prints Copyright Act, 1777

SECOND SCHEDULE—*contd*COPYRIGHT ACTS—*contd*

Session and Chapter	Title	Short Title
54 Geo 3, c 56	An Act to amend and render more effectual an Act of His present Majesty for encouraging the art of making new models and casts of busts and other things therein mentioned, and for giving further encouragement to such arts	The Sculpture Copyright Act, 1814
3 Will 4, c 15	An Act to amend the laws relating to Dramatic Literary Property	The Dramatic Copyright Act, 1833
5 & 6 Will 4, c 65	An Act for preventing the publication of Lectures without consent	The Lectures Copyright Act, 1835
6 & 7 Will 4, c 69	An Act to extend the protection of copyright in prints and engravings to Ireland	The Prints and Engravings Copyright Act, 1836
6 & 7 Will 4, c 110	An Act to repeal so much of an Act of the fifty-fourth year of King George the Third, respecting copyrights, as requires the delivery of a copy of every published book to the libraries of Sion Colloge, the four Universities of Scotland, and of the King's Inns in Dublin	The Copyright Act, 1836
5 & 6 Vict , c 45 .	An Act to amend the law of copyright	The Copyright Act, 1842
10 & 11 Vict , c 95	An Act to amend the law relating to the protection in the Colonies of works entitled to copyright in the United Kingdom	The Colonial Copyright Act, 1847
25 & 26 Vict , c 68	An Act for amending the law relating to copyright in works of the fine arts, and for repressing the commission of fraud in the production and sale of such works	The Fine Arts Copyright Act, 1862

[*Third Schedule . Acts repealed Rep (U K) 61 & 62 Vict , c 22 (S L R)*]

THE MEDICAL ACT, 1886 ¹

(49 & 50 Vict., c 48)

An Act to amend the Medical Acts

[25th June, 1886]

* * * * *

Short title
and construc-
tion

1. This Act may be cited as the Medical Act, 1886, and shall be construed as one with the Medical Acts

PART I

ADMISSION TO MEDICAL PRACTICE AND CONSTITUTION OF GENERAL COUNCIL

*Qualifying Examinations*Examination
before regis-
tration.

2. On and after the appointed day a person shall not be registered under the Medical Acts in respect of any qualification referred to in any of those Acts, unless he has passed such qualifying examination in medicine, surgery, and midwifery, as is in this Act mentioned

Qualifying
examinations
held by
medical
authorities.

3. (1) A qualifying examination shall be an examination in medicine, surgery, and midwifery held, for the purpose of granting a diploma or diplomas conferring the right of registration under the Medical Acts, by any of the following bodies, that is to say —

- (a) Any university in the United Kingdom or any medical corporation, legally qualified at the passing of this Act to grant such diploma or diplomas in respect of medicine and surgery, or
- (b) Any combination of two or more medical corporations in the same part of the United Kingdom who may agree to hold a joint examination in medicine, surgery, and midwifery, and of whom one at least is capable of granting such diploma as aforesaid in respect of medicine, and one at least is capable of granting such diploma in respect of surgery, or
- (c) Any combination of any such university as aforesaid with any other such university or universities or of any such university or universities with a medical corporation or corporations, the bodies forming such combination being in the same part of the United Kingdom

(2) The standard of proficiency required from candidates at the said qualifying examinations shall be such as sufficiently to guarantee the possession of the knowledge and skill requisite for the sufficient practice of medicine, surgery and midwifery, and it shall be the duty of the General Council to secure the maintenance of such standard of proficiency as aforesaid, and for that

¹ This Act may be cited with five others as the Medical Acts—see the Short Titles Act, 1896 (59 & 60 Vict., c 14), Vol. II. See also 5 Edw. 7, c. 14.

purpose such number of inspectors as may be determined by the General Council shall be appointed by the General Council and shall attend, as the General Council may direct, at all or any of the qualifying examinations held by any of the bodies aforesaid.

(3) Inspectors of examinations appointed under this section shall not interfere with the conduct of any examinations, but it shall be their duty to report to the General Council their opinion as to the sufficiency or insufficiency of every examination which they attend, and any other matters in relation to such examination which the General Council may require them to report, and the General Council shall forward a copy of every such report to the body or to each of the bodies which held the examination in respect of which the said report was made, and shall also forward a copy of such report, together with any observations thereon made by the said body or bodies, to the Privy Council.

(4) An inspector of examinations appointed under this section shall receive such remuneration to be paid as part of the expenses of the General Council, as the General Council, with the sanction of the Privy Council, may determine.

1. (1) If at any time it appears to the General Council that the standard of proficiency in medicine, surgery and midwifery, or in any of those subjects, or any branch thereof, required from candidates at the qualifying examinations held by any of the bodies for the time being holding such examinations is insufficient, the General Council shall make a representation to that effect to the Privy Council, and the Privy Council, if they think fit, after considering such representation, and also any objections thereto made by any body or bodies to which such representation relates, may by order declare that the examinations of any such body or bodies shall not be deemed to be qualifying examinations for the purpose of registration under the Medical Acts, and Her Majesty, with the advice of Her Privy Council, if upon further representation from the General Council or from any body or bodies to which such order relates it seems to Her expedient so to do, shall have power at any time to revoke any such order.

Withdrawal
from medical
authorities
of right
to hold
qualifying
examinations

(2) During the continuance of any such order the examinations held by the body or bodies to which it relates shall not be deemed qualifying examinations under this Act, and any diploma granted to persons on passing such examinations shall not entitle such persons to be registered under the Medical Acts, and any such body shall not choose either separately or collectively with any other body a member of the General Council, and the member (if any) for the time being representing such body in the General Council shall, unless he was chosen by such body collectively with any other body not subject to an order under this section, be suspended from taking part in the proceedings of the General Council.

5. (1) If a medical corporation represents to the General Council that it is unable to enter into such combination as is in this Act mentioned for the purpose of holding qualifying examinations, and the General Council are satisfied that the said medical corporation has used its best endeavours to

Qualifying
examinations
held by
medical
corporation

with assistant examiners. enter into such combination as aforesaid, and is unable to do so on reasonable terms, it shall be lawful for the General Council from time to time, if they think fit, on the application of such corporation, to appoint any number of examiners to assist at the examinations which are held by such corporation for the purpose of granting any diploma or diplomas conferring on the holders thereof if they have passed a qualifying examination, the right of registration under the Medical Acts

(2) It shall be the duty of the said assistant examiners to secure at the said examinations the maintenance of such standard of proficiency in medicine, surgery, and midwifery as is required under the foregoing provisions of this Act from candidates at qualifying examinations, and for that purpose the said assistant examiners shall have such powers and perform such duties in the conduct of those examinations as the General Council may from time to time by order prescribe, and any examination held subject to the provisions of this section shall be deemed to be a qualifying examination within the meaning of this Act

(3) Assistant examiners appointed under this section shall receive such remuneration, to be paid by the medical corporation at whose examinations they take part, as the General Council determine

(4) A medical corporation shall have power to admit to its examinations assistant examiners appointed under this section, and to conduct its examinations in accordance with the requirements of this section and of any orders made thereunder, anything in any Act or charter relating to such corporation to the contrary notwithstanding

Effect of Registration

Privileges
of registered
persons.

6. 1* * * a registered medical practitioner shall, save as in this Act mentioned, be entitled to practice medicine, surgery, and midwifery in the United Kingdom, and (subject to any local law) in any other part of Her Majesty's dominions, and to recover in due course of law in respect of such practice any expenses, charges in respect of medicaments or other appliances, or any fees to which he may be entitled, unless he is a fellow of a college of physicians, the fellows of which are prohibited by byelaw from recovering at law their expenses, charges or fees, in which case such prohibitory byelaw, so long as it is in force, may be pleaded in bar of any legal proceeding instituted by such fellow for the recovery of expenses, charges, or fees

Constitution of General Council

Members of
General
Council

7. (1) 1* * * the General Council shall consist of the following members, that is to say —

Five persons nominated from time to time by Her Majesty, with the advice of Her Privy Council, three of whom shall be nominated for England, one for Scotland, and one for Ireland

¹ Words repealed (U.K.) by 61 & 62 Vict, c. 22 (S. L. R.) have been omitted.

One person chosen from time to time by each of the following bodies —

The Royal College of Physicians of London ,
 The Royal College of Surgeons of England ,
 The Apothecaries Society of London ,
 The University of Oxford ,
 The University of Cambridge ,
 The University of London ,
 The University of Durham ,
 The Victoria University, Manchester ,
 The Royal College of Physicians of Edinburgh ,
 The Royal College of Surgeons of Edinburgh ,
 The Faculty of Physicians and Surgeons of Glasgow
 The University of Edinburgh ,
 The University of Glasgow ,
 The University of Aberdeen ,
 The University of St Andrews ,
 The King's and Queen's College of Physicians in Ireland ;
 The Royal College of Surgeons in Ireland ,
 The Apothecaries Hall of Ireland ,
 The University of Dublin ;
 The Royal University of Ireland

Three persons elected from time to time by the registered medical practitioners resident in England

One person elected from time to time by the registered medical practitioners resident in Scotland

One person elected from time to time by the registered medical practitioners resident in Ireland ,

(2) ¹ * * * * * nothing in this section shall affect the duration of the term of office of any person who at the time of the passing of this Act is a member of the General Council

8. (1) The members of the General Council representing the registered medical practitioners resident in the several parts of the United Kingdom (in this section referred to as "direct representatives") shall themselves be registered medical practitioners, they shall be elected to hold office for the term of five years, and shall be capable of re-election, and any of them may at any time resign his office by letter addressed to the president of the General Council, and upon the death or resignation of any one of them, some other person shall be elected in his place, but the proceedings of the General Council shall not be questioned on account of a vacancy or vacancies among the direct representatives

Regulations
as to election
of represent
atives of
the medical
profession

(2) Each direct representative shall be a member of the branch council for the part of the United Kingdom in which he is elected, he shall also be

¹ Words repealed (U. K.) by 61 & 62 Vict., c. 22 (S. L. R.) have been omitted

entitled to fees for attendance and travelling expenses to the same extent as other members of the General Council are entitled to the same

(3) The president of the General Council, or any other person whom the General Council may from time to time appoint, shall be the returning officer for the purpose of elections of direct representatives, and such returning officer shall, some time not less than six weeks nor more than two months before the day on which the term of office of any such representative will expire, and as soon as conveniently may be after the occurrence of any vacancy arising from the death or resignation of any such representative, issue his precept to the branch council for that part of the United Kingdom in which such representative was elected, requiring the said branch council to cause a representative to be elected by the registered medical practitioners resident in that part of the United Kingdom within twenty-one days after the receipt of the precept of the returning officer

(4) The election shall be conducted in such manner as may be provided by regulations to be made by the Privy Council, provided as follows —

(a) The nomination shall be in writing, and the nomination paper of each candidate shall be signed by not fewer than twelve registered medical practitioners, and

(b) The election shall be conducted by voting papers, and it shall be the duty of the branch council in any part of the United Kingdom in which an election is to be held, to cause a voting paper to be forwarded by post to each registered medical practitioner resident in that part at his registered address, but the election shall not be rendered void by reason of the omission of the branch council to cause such voting paper to be forwarded in any particular case or cases, and any registered medical practitioner to whom a voting paper has not been sent in pursuance of this Act may on application to the registrar of the said branch council obtain one from him, and

(c) Any registered medical practitioner entitled to vote at such election may vote for as many candidates as there are representatives to be elected

(5) Each branch council shall certify to the returning officer the person or persons elected by the registered medical practitioners resident in the part of the United Kingdom to which such branch council belongs

(6) A direct representative elected in place of any such representative retiring on the expiration of the period for which he was elected shall come into office at the expiration of that period, and a direct representative elected to fill a vacancy caused by the death or resignation of any such representative shall come into office on the day on which he is certified by the branch council to the returning officer to have been elected

(7) The expenses attending the election of a direct representative shall be defrayed as part of the expenses of the branch council for that part of the United Kingdom in which such representative is elected.

1* * * * *

9. The General Council from time to time, on the occurrence of a vacancy ^{in the office of president of the General Council} shall elect one of their number ^{to be president} to be president for a term not exceeding five years, and not extending beyond ^{the expiration of the term for which he has been made a member of the said Council} the expiration of the term for which he has been made a member of the said Council, but nothing in this Act shall affect the duration of the term of office of the person who at the time of the passing of this Act is president of the General Council.

expedient to give effect to such representation, and it shall be lawful for Her Majesty by Order in Council to give effect to the same, and any Order in Council so made shall be of the same validity as if it had been enacted in this Act

PART II

COLONIAL AND FOREIGN PRACTITIONERS

Registration
of colonial
practitioner
with re-
cognised
diploma

11. 1* * * where a person shows to the satisfaction of the registrar of the General Council that he holds some recognised colonial medical diploma or diplomas (as herein-after defined) granted to him in a British possession to which this Act applies, and that he is of good character, and that he is by law entitled to practise medicine, surgery, and midwifery in such British possession, he shall, on application to the said registrar, and on payment of such fee not exceeding five pounds as the General Council may from time to time determine, be entitled, without examination in the United Kingdom, to be registered as a colonial practitioner in the medical register

Provided that he proves to the satisfaction of the registrar any of the following circumstances —

- (1) That the said diploma or diplomas was or were granted to him at a time when he was not domiciled in the United Kingdom, or in the course of a period of not less than five years during the whole of which he resided out of the United Kingdom, or
- (2) That he was practising medicine or surgery or a branch of medicine or surgery in the United Kingdom on the 1* prescribed day, and that he has continuously practised the same either in the United Kingdom or elsewhere for a period of not less than ten years immediately preceding the 1* prescribed day

Registration
of foreign
practitioner
with re-
cognised
diploma.

12. 1* * * * where a person shows to the satisfaction of the registrar of the General Council that he holds some recognised foreign medical diploma or diplomas (as herein-after defined) granted in a foreign country to which this Act applies, and that he is of good character, and that he is by law entitled to practise medicine, surgery, and midwifery in such foreign country, he shall, on application to the said registrar, and on payment of such fee not exceeding five pounds as the General Council may from time to time determine, be entitled, without examination in the United Kingdom, to be registered as a foreign practitioner in the medical register

Provided that he proves to the satisfaction of the registrar any of the following circumstances —

- (1) That he is not a British subject, or
- (2) That, being a British subject, the said diploma or diplomas was or were granted to him at a time when he was not domiciled in the

¹ Words repealed (U. K.) by 61 & 62 Vict., c. 22 (S. L. R.) have been omitted.

United Kingdom, or in the course of a period of not less than five years during the whole of which he resided out of the United Kingdom, or

- (3) That, being a British subject, he was practising medicine or surgery, or a branch of medicine or surgery, in the United Kingdom on the ¹^d prescribed day, and that he has continuously practised the same in the United Kingdom or elsewhere for a period of not less than ten years immediately preceding the ¹^d prescribed day

13. (1) The medical diploma or diplomas granted in a British possession or foreign country to which this Act applies, which is or are to be deemed such recognised colonial or foreign medical diploma or diplomas as is or are required for the purposes of this Act, shall be such medical diploma or diplomas as may be recognised for the time being by the General Council as furnishing a sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of medicine, surgery, and midwifery

Medical diploma of colonial and foreign practitioner when deemed to be recognised

(2) Where the General Council have refused to recognise as aforesaid any colonial or foreign medical diploma, the Privy Council, on application being made to them, may, if they think fit, after considering such application, and after communication with the General Council, order the General Council to recognise the said diploma, and such order shall be duly obeyed

(3) If a person is refused registration as a colonial or foreign practitioner on any other ground than that the medical diploma or diplomas held by such person is or are not such recognised medical diploma or diplomas as above defined, the registrar of the General Council shall, if required, state in writing the reason for such refusal, and the person so refused registration may appeal to the Privy Council, and the Privy Council, after communication with the General Council, may dismiss the appeal or may order the General Council to enter the name of the appellant on the register.

(4) A person may, if so entitled under this Act, be registered both as a colonial and a foreign practitioner

14. The medical register shall contain a separate list of the names and addresses of the colonial practitioners, and also a separate list of the names and addresses of the foreign practitioners registered under this Act, each list shall be made out alphabetically according to the surnames, and the provisions of the Medical Act, 1858, relating to persons registered under that Act, and relating to the medical register and to offences in respect thereof, shall, so far as may be, apply in the case of colonial and foreign practitioners registered under this Act and of the said lists of those practitioners, in the same way as such provisions apply in the case of persons registered under the said Medical Act, 1858, and of the register as kept under that Act

Separate list of colonial and foreign practitioners in medical register

15. On and after the appointed day it shall be lawful for any registered medical practitioner who being on the list of colonial or of foreign practitioners is on that day in possession of or thereafter obtains any recognised colonial

Medical titles of colonial and foreign practitioners

¹ Words repealed (U. K.) by 61 & 62 Vict., c 22 (S. L. R.) have been omitted.

or foreign medical diploma granted in a British possession or foreign country to which this Act applies to cause a description of such diploma to be added to his name in the medical register

Registration
of foreign
degrees held
by registered
medical
practitioners

16. * * * it shall be lawful for any registered medical practitioner who, being on the medical register by virtue of English, Scotch, or Irish qualifications, is in possession of a foreign degree in medicine, to cause a description of such foreign medical degree to be added to his name as an additional title in the medical register, provided he shall satisfy the General Council that he obtained such degree after proper examination and prior to the passing of this Act

Power of
Her Majesty
in Council
to define
colonies and
foreign
countries to
which this
part of the
Act applies.

17. (1) Her Majesty may from time to time by Order in Council declare that this part of this Act shall be deemed on and after a day to be named in such Order to apply to any British possession or foreign country which in the opinion of Her Majesty affords to the registered medical practitioners of the United Kingdom such privileges of practising in the said British possession or foreign country as to Her Majesty may seem just, and from and after the day named in such Order in Council such British possession or foreign country shall be deemed to be a British possession or foreign country to which this Act applies within the meaning of this part thereof, but until such Order in Council has been made in respect of any British possession or foreign country, this part of this Act shall not be deemed to apply, to any such possession or country, and the expression "the prescribed day" as used in this part of this Act means, as respects any British possession or foreign country, the day on and after which this part of this Act is declared by Order in Council to apply to such British possession or foreign country

(2) Her Majesty may from time to time by Order in Council revoke and renew any Order made in pursuance of this section and on the revocation of such Order as respects any British possession or foreign country, such possession or foreign country shall cease to be a possession or country to which this part of this Act applies without prejudice nevertheless to the right of any persons whose names have been already entered on the register

Amendment
of 21 & 22
Vict., c. 90,
s. 36, as to
medical
officers in
ships.

18. Nothing in the Medical Act, 1858, shall prevent a person holding a medical diploma entitling him to practise medicine or surgery in a British possession to which this Act applies from holding an appointment as a medical officer in any vessel registered in that possession

PART III

MISCELLANEOUS PROVISIONS

Default of
General
Council.

19. If at any time it appears to the Privy Council that the General Council has failed to secure the maintenance of a sufficient standard of proficiency at any qualifying examinations, or that occasion has arisen for the General

¹ Words repealed (U. K.) by 61 & 62 Vict., c. 22 (S. L. R.) have been omitted

Council to appoint assistant examiners under this Act for the purpose of examinations held by any medical corporation, or to exercise any power or perform any duty or do any act or thing vested in or imposed on or authorised to be done by the General Council under the Medical Acts or this Act, the Privy Council may notify their opinion to the General Council, and if the General Council fail to comply with any directions of the Privy Council relating to such notification, the Privy Council may themselves give effect to such directions, and for that purpose may exercise any power or do any act or thing vested in or authorised to be done by the General Council, and may of their own motion do any act or thing which, under the Medical Acts or this Act, they are authorised to do in pursuance of a representation or suggestion from the General Council

20. The diploma of member of the King's and Queen's College of Physicians in Ireland, and the degree of Master in Obstetrics of any university in the United Kingdom, shall be deemed to be added to the qualifications prescribed in Schedule A to the Medical Act, 1858

Addition to qualifications under 21 & 22 Vict, c 90

21. Every registered medical practitioner to whom a diploma for proficiency in sanitary science, public health, or state medicine, has after special examination been granted by any college or faculty of physicians or surgeons or university in the United Kingdom, or by any such bodies acting in combination, shall, if such diploma appears to the Privy Council or to the General Council to deserve recognition in the medical register, be entitled, on payment of such fee as the General Council may appoint, to have such diploma entered in the said register, in addition to any other diploma or diplomas in respect of which he is registered

Registration of diploma in sanitary science

22. (1) All powers vested in the Privy Council by the Medical Acts or this Act may be exercised by any two or more of the Lords and others of Her Majesty's most honourable Privy Council

Exercise of powers of Privy Council.

(2) Any act of the Privy Council under the Medical Acts or this Act shall be sufficiently signified by an instrument signed by the Clerk of the Council, and every order and act signified by an instrument purporting to be signed by the Clerk of the Council shall be deemed to have been duly made and done by the Privy Council, and every instrument so signed shall be received in evidence in all courts and proceedings without proof of the authority or signature of the Clerk of the Council, or other proof

23. The following copies of any orders made in pursuance of the Medical Acts or this Act, or the Dentists Act, 1878,¹ shall be evidence, that is to say,—

Evidence of orders.

(1) Any copy purporting to be printed by the Queen's printer, or by any other printer in pursuance of an authority given by the General Council

(2) Any copy of an order certified to be a true copy by the registrar of the General Council, or by any other person appointed by the

¹ 41 & 42 Vict, c 33, printed *ante*.

General Council either in addition to or in exclusion of the registrar to certify such orders

Saving Clauses

Saving as to
practice of
existing
practitioners

24. This Act shall not increase or diminish the privileges in respect of his practice of any person who, on the day preceding the appointed day is a registered medical practitioner, and such person shall be entitled on and after the said appointed day to practise, in pursuance of the qualification possessed by him before the said appointed day, in medicine, surgery, and midwifery, or any of them, or any branch of medicine or surgery, according as he was entitled to practise the same before the said appointed day, but not further or otherwise

Saving as
to local law

25. Any person who at the time of the repeal of any enactment repealed by this Act was, in pursuance of such enactment, legally entitled to practise as a medical practitioner in any colony or part of Her Majesty's dominions other than the United Kingdom, shall after the date of such repeal continue to be so entitled if he would have been entitled if no such repeal had taken place

Dentists

Provisions as
to 41 & 42
Vict., c 33

26. It is hereby declared that the words "title, addition, or description," where used in the Dentists Act, 1878,¹ include any title, addition to a name, designation, or description, whether expressed in words or by letters, or partly in one way and partly in the other

[There shall be repealed so much of section four of the Dentists Act, 1878,¹ as provides that a prosecution for any of the offences above in that Act mentioned shall not be instituted by a private person, except with the consent of the General Council or of a branch council, and]² a prosecution for any such offences may be instituted by a private person accordingly

Notwithstanding anything in section five of the Dentists Act, 1878¹, the rights of any person registered under the Dentists Act, 1878,¹ to practise dentistry or dental surgery in any part of Her Majesty's dominions other than the United Kingdom shall be subject to any local law in force in that part

It shall be lawful for Her Majesty at any time after the said appointed day to declare by Order in Council that section twenty-eight of the said Dentists Act, 1878,¹ shall be in force on and after a day to be named in such Order, but in the meantime and until such order has been made, and before such day as last aforesaid, such section shall not be deemed to be in force

Save as in this Act mentioned the Dentists Act, 1878,¹ shall not be affected by this Act

¹ 41 & 42 Vict., c. 33, printed *ante*.

² Repealed (U. K.) 61 & 62 Vict., c. 22 (S. L. R.)

Definitions.

27. In this Act, unless the context otherwise requires,—

Definitions.

The expression “part of the United Kingdom” means, according to circumstances, England, Scotland, or Ireland

The expression “British possession” means any part of Her Majesty’s dominions exclusive of the United Kingdom, but inclusive of the Isle of Man and the Channel Islands, and where parts of such dominions are under both a central and a local legislature, all parts under one central legislature are for the purposes of this definition deemed to be one British possession

The expression “local law” means an Act or Ordinance passed by the legislature of a British possession

The expression “the appointed day” means the first of June one thousand eight hundred and eighty-seven, or such other day in June one thousand eight hundred and eighty-seven as may be appointed by the Privy Council

The expression “medical corporation” means any body in the United Kingdom, other than a university, for the time being competent to grant a diploma or diplomas conferring on the holder thereof, if he has passed a qualifying examination, the right of registration under the Medical Acts.

The expression “registered medical practitioner” means any person for the time being registered under the Medical Acts

The word “diploma” means any diploma, degree, fellowship, membership, license, authority to practise, letters, testimonial, certificate, or other status or document granted by any university, corporation, college, or other body, or by any departments of or persons acting under the authority of the government of any country or place within or without Her Majesty’s dominions

The expression “medical diploma” means a diploma granted in respect of medicine, surgery, and midwifery, or any of them, or any branch of medicine or surgery

The word “person” includes a body of persons, corporate or not corporate

2 Vict.,

The expression “the Medical Acts” means the Medical Act, 1858, and any Acts amending the same, passed before the passing of this Act

Repeal

28 [*Repeal of enactments in Schedule—Rep (U K) 61 and 62 Vict, c 22 (S L R)]*

[*The schedule Enactments repealed—Rep (U K) 61 & 62 Vict, c 22 (S. L R)]*

THE CONVERSION OF INDIA STOCK ACT, 1887

(50 & 51 Vict, c. 11.)

An Act for giving facilities for the conversion of India Four per Cent Stock into India Three and a half per Cent Stock, and for other purposes relating thereto

[23rd May, 1887]

[*Preamble Rep (U K) 8 Edw 7, c 49 (S L R).*]

Short title.

1. This Act may be cited as the Conversion of India Stock Act, 1887

Power of holders, trustees, etc., in relation to exchange of India Four per Cent. Stock for India Three and a half per Cent. Stock.

2. Where any India Four per Cent Stock is standing in the name of any person, such person (in this section referred to as the holder) may, with the consent of the Secretary of State, exchange such stock or any part thereof for India Three and a half per Cent Stock Provided that when the consent of any person other than the holder is required for a change of investment by such holder, such consent shall be required for the purpose of an exchange in pursuance of this section, and when the holder is a trustee and has not power under the terms of his trust to vary investments, the consent either of every person interested in the stock, or when any such person is an infant or a person of unsound mind the consent of his guardian or guardians or of the committee of his estate or curator bonis (as the case may be), or the consent of a judge of the High Court of Justice in England and Ireland or in Scotland of a judge of the Court of Session, shall be required for the purpose of an exchange in pursuance of this section, and when the holder in a joint account is an infant, or a person of unsound mind, or is under any other disability, or is beyond the seas, the other holders or holder may, with the consent of a judge of the High Court of Justice in England and Ireland, or in Scotland of a judge of the Court of Session, exchange in pursuance of this section, such stock or any part thereof for India Three and a half per Cent Stock, and such consents having been obtained, holders shall not be liable for any loss resulting from any exchange in pursuance of this section Subject to rules of court any jurisdiction given by this Act to a judge of the High Court of Justice shall be exercised by a judge of the Chancery Division

The Bank shall not be bound to inquire as to whether any such consent as aforesaid is given to any exchange, nor be responsible in the event of any consent not having been given

Powers of investment.

3. A power, whether subject or not to any restrictions or conditions, to invest in India Four per Cent Stock shall extend to authorise an investment, subject to the same conditions and restrictions (if any) in India Three and a half per Cent Stock

Stock taken in exchange to be held subject to same provisions as former stock

4. Where stock is exchanged under this Act, the stock taken in exchange, and the interest thereon, shall be subject to the same trusts, charges, rights, distringas, and restraints as affect the stock cancelled on the exchange, and the interest thereon respectively

5. Every power of attorney in force for the sale and transfer of any India Four per Cent. Stock shall, unless it be legally revoked or become void, remain in force for the purpose of enabling the attorney or attorneys therein named or referred to to receive and give receipts for the money which will become payable for the redemption of any principal sum of such India Four per Cent. Stock, and to sell and transfer any India Three and a half per Cent. Stock that may be accepted in exchange for such India Four per Cent. Stock, or into which such India Four per Cent. Stock may be converted and to receive the

"The Bank" means ^{1*} * the Bank of England, or ^{1*} * the Bank of Ireland, as the case may be, ^{2*} *

"Person" includes a body of persons corporate or unincorporate

THE BRITISH SETTLEMENTS ACT, 1887

(50 & 51 Vict., c. 54.)

An Act to enable Her Majesty to provide for the Government of Her Possessions acquired by Settlement

[16th September, 1887]

WHEREAS divers of Her Majesty's subjects have resorted to and settled in, and may hereafter resort to and settle in, divers places where there is no civilized government, and such settlements have become or may hereafter become possessions of Her Majesty, and it is expedient to extend the power of Her Majesty to provide for the government of such settlements, and for that purpose to repeal and re-enact with amendments the existing Acts enabling Her Majesty to provide for such government

* * * * *

Short title.
Power of the Queen in Council to make laws and establish courts.

1. This Act may be cited as the British Settlements Act, 1887

2. It shall be lawful for Her Majesty the Queen in Council from time to time to establish all such laws and institutions, and constitute such courts and officers, and make such provisions and regulations for the proceedings in the said courts and for the administration of justice, as may appear to Her Majesty in Council to be necessary for the peace, order, and good government of Her Majesty's subjects and others within any British settlement.

Delegation of power by the Queen.

3. It shall be lawful for Her Majesty the Queen from time to time, by any instrument passed under the Great Seal of the United Kingdom, or by any instructions under Her Majesty's Royal Sign Manual referred to in such instrument as made, or to be made, as respects any British settlement, to delegate to any three or more persons within the settlement all or any of the powers conferred by this Act on Her Majesty in Council, either absolutely or subject to such conditions, provisions, and limitations as may be specified in such instrument or instructions

Provided that, notwithstanding any such delegation, the Queen in Council may exercise all or any of the powers under this Act Provided always, that every such instrument or instruction as aforesaid shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively

Power to the Queen in Council

4. It shall be lawful for Her Majesty the Queen in Council to confer on any court in any British possession any such jurisdiction, civil or criminal,

¹ The words "the Governor and Company of," were repealed (U K.) by 8 Edw 7, c 49 (S. L. R.)

² The words "and includes their successors," were repealed (U K.) by 8 Edw 7, c. 49 (S. L. R.).

original or appellate, in respect of matters occurring or arising in any British settlement, as might be conferred by virtue of this Act upon a court in the settlement, and to make such provisions and regulations as Her Majesty in Council may think fit respecting the exercise of the jurisdiction conferred under this section on any court, and respecting the enforcement and execution of the judgments, decrees, orders, and sentences of such court, and respecting appeals therefrom, and every Order of Her Majesty in Council under this section shall be effectual to vest in the court the jurisdiction expressed to be thereby conferred, and the court shall exercise the same in accordance with and subject to the said provisions and regulations. Provided always, that every Order in Council made in pursuance of this Act shall be laid before both Houses of Parliament as soon as conveniently may be after the making thereof

5. It shall be lawful for Her Majesty the Queen in Council from time to time to make, and when made to alter and revoke, Orders for the purposes of this Act

6. For the purposes of this Act the expression "British possession" means any part of Her Majesty's possessions out of the United Kingdom, and the expression "British settlement" means any British possession which has not been acquired by cession or conquest, and is not for the time being within the jurisdiction of the Legislature, constituted otherwise than by virtue of this Act or of any Act repealed by this Act, of any British possession

7 and Schedule. [*Repeal Omitted, none of the repealed statutes being applicable to India*]

THE SUPERANNUATION ACT, 1887

(50 & 51 Vict., c. 67.)

An Act to amend the Superannuation Acts, 1834 and 1859, and for other purposes

[16th September, 1887]

* * * * *

1. (1) Where a person employed in the civil service of the State is injured—
- (a) in the actual discharge of his duty, and
 - (b) without his own default, and
 - (c) by some injury specifically attributable to the nature of his duty,

Grant of gratuity or allowance to injured civil servant

the Treasury may grant to him, or if he dies from the injury, to his widow, his mother, if wholly dependent on him at the time of his death and to his children, or to any of them, such gratuity or annual allowance as the Treasury may consider reasonable, and as may be permitted by the terms of a warrant under this section

(2) The Treasury shall forthwith after the passing of this Act frame a warrant regulating the grant of gratuities and annual allowances under this section, and the warrant so framed shall be laid before Parliament.

(3) Provided that a gratuity under this section shall not exceed one year's salary of the person injured, and an allowance under this section shall not, together with any superannuation allowance to which he is otherwise entitled, exceed the salary of the person injured, or three hundred pounds a year, whichever is less

Power to
grant retir-
ing allowance
to persons
removed.

2. (1) Where a civil servant is removed from his office on the ground of his inability to discharge efficiently the duties of his office, and a superannuation allowance cannot lawfully be granted to him under the Superannuation Acts, 1834¹ and 1859, and the Treasury think that the special circumstances of the case justify the grant to him of a retiring allowance, they may grant to him such retiring allowance as they think just and proper, but in no case exceeding the amount for which his length of service would qualify him under sections two and four of the Superannuation Act, 1859, without any additions under section seven of that Act

(2) A minute of the Treasury granting an allowance under this section to any civil servant shall set forth the amount of the allowance granted to him, and the reasons for such allowance, and shall be laid before Parliament Provided that the Treasury before making the grant shall consider any representation which the civil servant removed may have submitted to them

Reckoning of
temporary
services.

3. Where a person at the time he becomes a civil servant within the meaning of this Act is serving the State in a temporary capacity, the Treasury may, if in their opinion any special circumstances of the case warrant such a course, direct that his service in that capacity may be reckoned for the purposes of the Superannuation Acts, 1834¹ and 1859, and this Act, as service in the capacity of a civil servant, and it shall be so reckoned accordingly

4 & 5 Will
IV, c 34

Compassionate
gratuity on
retirement of
person not
entitled to
superannuation

4. If a person employed in any public department in a capacity in respect of which a superannuation allowance cannot be granted under the Superannuation Act, 1859, retires, or is removed from his employment, and

- (a) the employment is one to which he was required to devote his whole time, and
- (b) the remuneration for the employment was paid entirely out of money provided by Parliament, and
- (c) he has served in the employment for not less than seven years, if he is removed in consequence of the abolition of his employment, or for the purpose of facilitating improvements in the organisation of the department by which economy can be effected, or for not less than fifteen years if his retirement is caused from infirmity of mind or body, permanently incapacitating him from the duties of his employment,

the Treasury may, if they think fit, grant to him a compassionate gratuity not exceeding one pound or one week's pay, whichever is the greater, for each year of his service in his employment

5. A person shall not be entitled to reckon the same period of time both for the purpose of a superannuation allowance under the Superannuation Acts, 1834 and 1859, and this Act, and also for the purpose of naval or military non-effective pay

Provision
as to officers
receiving
double
pensions

6. (1) The Treasury may, within one month after the passing of this Act, frame rules as to the conditions on which any civil employment of profit under any public department as defined by this Act, or any employment of profit under the Government of any British possession, or any employment under the Government of any Foreign State, may be accepted or held by any person who is in receipt of or has received any sum granted by Parliament for the pay, half-pay, or retired pay of officers of Her Majesty's naval or land forces, or otherwise for payment for past service in either of such forces, or who has commuted the right to receive the same, and as to the effect of such acceptance or holding on the said pay or sum, and the Treasury may in such rules provide for the enforcement thereof by the forfeiture, suspension, or reduction of any such pay or sum as aforesaid, or of any commutation money or remuneration for such employment

Regulations
as to officers
receiving
half pay
or
retired pay

(2) Such rules shall also provide for the returns to be laid before Parliament of such officers accepting employment as are affected by the rules, and shall come into operation at the date of the passing of this Act

(3) The rules shall be laid before both Houses of Parliament forthwith

(4) For the purposes of this section "British possession" means any part of Her Majesty's dominions out of the United Kingdom, and this section shall apply to Cyprus as if it were a British possession

7. (1) † * * * *1

Provision as
to lunatics

(2) Where any annuity, whether pension, superannuation, or other allowance, is payable out of moneys provided by Parliament to a person in respect either of service as a civil servant or of military or naval service, and such person is or becomes a lunatic towards whose maintenance a contribution is made out of money provided by Parliament, then as long as the contribution is made his annuity shall be reduced by an amount equal to that contribution, and if the amount of the contribution exceeds the amount of the annuity, the annuity shall cease to be payable

8. On the death of a person to whom any sum not exceeding one hundred pounds is due from a public department in respect of any civil pay, superannuation, or other allowance, annuity or gratuity, then, if the prescribed public department so direct, but subject to the regulations (if any) made by the Treasury, probate or other proof of the title of the personal representative of the deceased person may be dispensed with, and the said sum may be paid or distributed to or among the persons appearing to the public department to be beneficially entitled to the personal estate of the deceased person, or to

Distribution
of money not
exceeding
100% without
probate

¹ Sub section (1), which was repealed by 52 & 53 Vict., c. 41, s. 94, has been omitted.

or among any one or more of those persons, or in case of the illegitimacy of the deceased person or his children, to or among such persons as the department may think fit, and the department shall be discharged from all liability in respect of any such payment or distribution

Decision of
Treasury

9. The decision of the Treasury on any question which arise as to the application of any section of this Act to any person, or as to the amount of any allowance or gratuity under this Act, or as to the reckoning of any service for such allowance or gratuity, shall be final

Saving for
existing inter-
ests

10. Nothing in this Act shall be construed so as in any way to interfere with the rights existing at the passing of this Act of any civil servant then holding office

Laying of
warrant and
minutes
before
Parliament

11. Every warrant and minute under this Act which is required to be laid before Parliament shall be laid before both Houses of Parliament in manner provided by section thirteen of the Superannuation Act, 1859

Definitions.

12. In this Act, unless the context otherwise requires,—

The expression “civil servant” means a person who has served in and established capacity in the permanent civil service of the State within the meaning of section seventeen of the Superannuation Act, 1859

22 Vict.
c. 29

¹The expression “Treasury” means the Commissioners of Her Majesty’s Treasury

The expression “public department” means the Treasury, the Commissioners for executing the office of Lord High Admiral, and any of Her Majesty’s Principal Secretaries of State, and any other public department of the Government, and the expression “prescribed public department” means, as respects any matter, the department prescribed for the purpose of that matter by the Treasury

Short titles.

13. 2* * * the Superannuation Act, 1834, 2* * and the Superannuation Act, 1859, are together in this Act referred to as the Superannuation Acts, 1834³ and 1859

The said Acts and this Act may be cited together as the Superannuation Acts, 1834³ to 1887, and this Act may be cited separately as the Superannuation Act, 1887

14 and Schedule. [*Repeal—Rep. (U K) 8 Edw 7, c 49 (S L R)*]

¹ This definition is repealed (U K.) by 8 Edw 7, c. 49 (S L R).

² Words repealed (U K.) by 8 Edw 7, c. 49 (S L R) have been omitted.

³ Printed, *ante*.

THE APPELLATE JURISDICTION ACT, 1887

(50 & 51 Vict., c. 70.)

An Act to amend the Appellate Jurisdiction Act, 1876.

[16th September 1887.]

[Preamble—Rep (U K) 8 Edw 7, c 49 (S L R)]

1. 1* * * * notwithstanding anything in the eighth section of the said Act contained, every Lord of Appeal shall be empowered to take his seat and the oaths at any such sitting of the House of Lords during prorogation Lord of Appeal may take his seat during prorogation.

2. The sixth section of the Appellate Jurisdiction Act, 1876, shall be construed and take effect, as well in respect of any Lord of Appeal in Ordinary heretofore appointed under that Act, as of any such Lord hereafter appointed, so as to entitle any person so appointed to sit and vote as a member of the House of Lords during his life as fully as if the words “during the time that he continues in his office as a Lord of Appeal in Ordinary, and no longer” had been omitted from the said section Retired Lord of Appeal in Ordinary may sit in House of Lords.

3. The Judicial Committee of the Privy Council as formed under the provisions of the first section of the Act of the third and fourth William the Fourth, chapter forty-one, intituled “An Act for the better administration of Justice in His Majesty’s Privy Council,” shall include such members of Her Majesty’s Privy Council as are for the time being holding or have held any of the offices in the Appellate Jurisdiction Act, 1876, and this Act, described as high judicial offices Amendment of 3 & 4 Will 4, c 41

4. Any person who shall in virtue of the thirtieth section of the Act of the third and fourth William the Fourth, chapter forty-one, attend the sittings of the Judicial Committee of the Privy Council, shall be deemed to be included as a member of the said Committee for all purposes, and shall, if there be only one such person, be entitled to receive the whole amount of the sums by the said section provided, that is to say, eight hundred pounds for every year during which he shall so attend, but if there shall at any time be two such persons, they shall severally be entitled to the sums provided in the said section Remuneration in Judicial Committee

5. The expression “high judicial office” as defined in the twenty-fifth section of the Appellate Jurisdiction Act, 1876, shall be deemed to include the office of a Lord of Appeal in Ordinary and the office of a member of the Judicial Committee of the Privy Council Amendment of 39 & 40 Vict, c 59, s. 25

6. This Act may be cited as the Appellate Jurisdiction Act, 1887. Short title.

END OF VOL I

¹ Preamble to the section has been repealed (U K) by 8 Edw 7, c 49 (S L R.)

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